JOURNAL

OF THE

SOCIETY OF COMPARATIVE LEGISLATION.

EDITED FOR THE SOCIETY BY

SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.,

AND

EDWARD MANSON, Esq.

ASSISTED BY

C. E. A. BEDWELL, Esq.

"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ὀφθῇ καὶ τὸ χρήσιμον."—ARIST. *Pol.* II. 1.

NEW SERIES. VOL. XV., PART 1.

LONDON:

JOHN MURRAY, ALBEMARLE STREET, W.

1915

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PRINTED BY
HAZELL, WATSON AND VINEY, LD.,
LONDON AND AYLESBURY.

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THE RT. HON. SIR CHARLES TUPPER, BART., G.C.M.G.

SIR CHARLES TUPPER has been described as the grand old man of Canada; but much of his work has been Imperial in its influence; and it is as one of the pioneers of efforts for the consolidation of the Empire that his portrait will be welcome to readers of the Journal.

The Tupper family from which he is descended originally emigrated to Massachusetts, but moved in the middle of the eighteenth century to Nova Scotia, where the Rev. Charles Tupper, D.D., was a Baptist minister. His son Charles, born in 1821, was educated for the medical profession and took his degrees of L.R.C.S. and M.D. in Edinburgh. For twelve years he practised in Nova Scotia as a country doctor, thereby gaining a knowledge of and influence among the people of the Province which was of considerable value when he entered upon a political career in 1855. Into the details of that career it is impossible to enter, but it may be said that in the Provincial Legislature, in the Dominion Parliament, in Imperial affairs and even in international relations, Dr. Tupper obtained a position in which he secured the respect and approbation of his coadjutors and colleagues. Practical expression has been given to them by the honours conferred upon him from time to time, and if to law rather than to medicine had been his vocation, his career would have found a fitting conclusion as a member of the highest judicial tribunal. Sir Charles Tupper has held almost every Government Office open to a Minister of the Crown, and full of years and of honour he lives in retirement, though still with an active interest in the welfare of Canada and the Empire, and, as a recent volume of *Political Reminiscences* testifies, ready to place his ripe experience and wide knowledge at the disposal of the present generation. He has lived to see accomplished that which he had ardently desired as early as 1861 when he foresaw British America, stretching from the Atlantic to the Pacific and presenting to the world a great and powerful organisation with British institutions, sympathies and feelings and bound indissolubly to the throne of England by a community of interests.

THE RIGHT HON. BARON DE VILLIERS OF WYNBERG, K.C.M.G.[1]

[*Contributed by* W. R. Bisschop, Esq., LL.D.]

On September 1, 1914, South Africa lost one of its noblest sons—one of whom it may be said that he was by character and by development fitted to guide his fellow men and to preside over their councils.

Whenever the history of the resuscitation and modern development of Roman-Dutch law is written, the names of O'Connor, de Villiers, Rose Innes, Kotzé will be among those of the earlier exponents of the common law of South Africa at a time when with economical development and the great strides of South African culture the national law and legal institutions, which were inherited from the first European settlers on those shores, threatened to be either absorbed by, or amalgamated with, English laws and customs. Of those men, de Villiers, through the leading position which he occupied during more than forty years, wielded the greatest influence, and his name, more than any other, will go down to posterity as that of the restorer of Roman-Dutch law in South Africa.

John Henry de Villiers was born at Rosendaal, in the district of Paarl, on June 15, 1842. He came from an old Huguenot stock who had settled in South Africa as fugitives from La Rochelle, France, after the revocation of the Edict of Nantes.

After having received his primary education at the Paarl and at the African College, Cape Town, young de Villiers left in the early 'sixties for Utrecht, Holland, in order to follow a theological career in the Dutch Reformed Church, as it was so much the custom for his countrymen to do in those days. This, however, was not to be. After a short residence at the Dutch University, the young student left for Berlin, where he made a momentary acquaintance with the rudiments of medicine, and then turned his face towards England and the Inner Temple for a legal training. This remained his final choice, and in Michaelmas term of 1865 he was called to the Bar.

Soon after his return to Cape Town, he was (January 1866) admitted as a member of the Colonial Bar, and it was not long before he acquired a practice. If business were not so brisk as it is at the present day, so the numbers of practitioners were fewer by far; in fact, de Villiers had to share

[1] Lord de Villiers was a valued supporter of the Society of Comparative Legislation. A portrait of him was published in the first volume of the New Series of the Journal.—Ed.

whatever work there was with three others, of whom one, the Hon. Sir E. J. Buchanan, is now a Judge at Cape Town. His forensic honours came quickly. After having been elected a member of the Cape Parliament for Worcester in 1866, he became in 1872 Attorney-General in the Molteno Cabinet—the first under the grant of responsible government to the Cape Colony.

On the death, in 1873, of Sir Sidney Bell, C.J., the Attorney-General, at the age of thirty-one, was raised to the position which he adorned for a period of thirty-six years. His nomination to the Chief Justiceship of the Cape Colony created at the time a sensation, and many were the misgivings with which his contemporaries followed the young judge when he administered the oath to himself on his entry upon his judicial career. He outlived them all. No more sagacious judge ever presided over a Court of Law. With great firmness yet with infinite tact he guided the proceedings of the Court which were entrusted to his leadership. De Villiers knew where to find his law, and he loved to search its hidden recesses. Possessed of a thorough knowledge of Latin and Dutch, he was not afraid of going back to the sources from which the Roman-Dutch law has been built up as an artistic mosaic, and to apply towards the result of his painstaking researches the more modern views which the exigencies of the present time require. De Villiers at Cape Town, his brother Melius and Maasdorp at Bloemfontein, and Kotzé and Rose Innes at Pretoria, have shown the world that it needs little legislation to develop the common law of the country, if the sources thereof are not closed treasure stores for those who have to expound the law.

The Chief Justice left his mark in nearly every branch of the law. The variety of cases which came before him was endless. "Divorce followed by salvage, water-right cases preceding nice questions of banking law, company law, leases, wills, bankruptcy. . . . Immense must have been the strain of solving for all these years delicate problems not only so varied in their nature as has been the case, but dependent as those problems are for their solution on the application of so many varied principles in private or public law, now from Roman or Roman-Dutch, now from English or other systems of law. . . . His deep knowledge of essential legal principles tempered by a keen faculty for the practical aspects of their application have combined to assist in developing such notable lines of 'judicial' law as for example the series of cases on water-rights. Above all stand out his absolute and fearless impartiality and respect of the liberty of the subject no matter what may be the considerations of expediency or policy involved."[1]

Recognition of his services followed in various ways and in constant succession. In 1877 he was knighted, and in 1882 was made K.C.M.G. In 1896 he was added to the Judicial Committee of the Privy Council, and in 1910 on the creation of the Supreme Court of the Union of South Africa

[1] See *South African Law Journal*, 1901, pp. 1–10.

he was elected its first President and created a peer under the title of Baron de Villiers of Wynberg. "His peerage," as the *Times* remarked, "was the first peerage of the present reign, the first granted to a South African, and the first granted upon a lawyer as a reward of a legal career exclusively colonial."

Well deserved was this distinction to a builder of a legal structure whose political career was not less distinguished than the fame earned on the Bench. Though his elevation to the Bench cut short his representation of Worcester in the House of Representatives, it did not sever his connection with the Legislature, since, as Chief Justice, he became President ex-officio of the Legislative Council until the formation of the Union of South Africa. Several times he presided over Committees appointed by the Government on various subjects. Outside Parliament his public duties were wide and many. His interest in educational matters, among others, was shown in various ways and at various times.

His highest distinction, however, was his appointment as president of the National Convention called together from the four South African Colonies in order to achieve political union. "It would be difficult," the *Times* wrote in its obituary, "to estimate at its true value the work which he did in the guidance of the Convention. His balanced temperament, wide legal experience, and deep devotion to the highest ideals of both races made him always foremost in urging compromises and agreement, in devising a way of honour by which compromise could be attained, and in suggesting words which might cast the decisions of the Convention into the form of the necessary statute. This was the crown of his life and work. Few men have brought to so great a task an intellect of such brilliant natural ability trained by a lifetime of such unremitting application."[1]

After the departure of Lord Gladstone from South Africa in July 1914, Lord de Villiers acted as Governor-General for the Union, and it was while occupying this highest post in the administration of South Africa that death overtook him and ended his well-spent life.

In 1871 he married Aletta Johanna, daughter of Mr. J. P. Jordaan, who survives him, as well as his three children. He is succeeded in his title by his eldest son, Charles Percy de Villiers. Of his three brothers, one—Melius—was Chief Justice of the former Orange Free State and afterwards Professor of Roman-Dutch Law at Leyden.

[1] *The Times*, September 3, 1914.

THE RIGHT HON. ARTHUR COHEN, K.C.

[*Contributed by* Sir H. Erle Richards, K.C., K.C.S.I.]

It is proper that the memory of Arthur Cohen should find a record in the pages of a journal which is intended for the comparison and discussion of the laws of all countries, for Cohen was essentially a jurist in the wider sense of that term. He was, it is true, a great master of English law, but his learning and interests stretched out beyond the limits of our own legal system: he had studied the great continental codes and the principles on which they are founded, he knew much of those various and diverse bodies of law and customs which are in force in the Indian Empire, he was well versed in the rules and usages of international law whether public or private. And to each of them he was wont to apply a habit of clear-cut thought and a gift of exposition very deliberate but very lucid, which served to bring into relief the underlying principles of jurisprudence.

The variety of the cases in which Cohen appeared as counsel is sufficient testimony of itself to the range of knowledge which he possessed, and to recall a few of them will give some conception of the work on which his life at the Bar was spent. The earlier related for the most part to commercial questions, and especially to marine insurance, a subject in which he soon became an acknowledged expert. The well-known case on total loss and abandonment, *Potter* v. *Rankin*,[1] tried in 1867 when Cohen had been but ten years at the Bar, is a good instance. Won in the Common Pleas before Bovill C.J., Willes J., Keating J., and Montague Smith J., lost in the Exchequer Chamber before Cockburn C.J., Kelly C.B., Channell B., and Lush J., it was won again in the House of Lords before Lords Chelmsford, Colonsay, and Hatherley with Martin B., Bramwell B., Brett J., Mellor J., and Blackburn J. advising; and there Benjamin led Cohen for the appellants. It is at once an illustration of the heavy work in which Cohen was already engaged and of the thorough method in which the arguments of the day were submitted and considered—a method to which Cohen's own habits of thought were the more suited. In *The Charkieh*[2] in 1873 he appeared for the Khedive of Egypt, who claimed the privileges of a Sovereign Prince. In *Ashbury* v. *Riche*,[3] heard in the House of Lords in 1875, soon after he had become a Queen's Counsel, we find him arguing important issues as to the powers of statutory companies. In *R.* v. *Keyn* (*The Franconia*)[4] in 1876 he was

[1] L.R. 6 H.L. 83.
[2] L.R. 4 A. & E. 59.
[3] L.R. 7 H.L. 653.
[4] 2 Ex.D. 63.

engaged for the appellant Keyn, and successfully. That case is a mine of learning on the jurisdiction of the Crown for criminal purposes within what are generally known as territorial waters, and on the international law applicable thereto. *The British South Africa Co.* v. *The Companhia de Moçambique* [1] raised a question as to the right to sue in England for trespass to land abroad. Here Cohen, who led for the appellants, was successful in reversing the decision of the Court below, and his argument contains an elaborate and exhaustive investigation of the law upon the whole subject. In *The Imperial Japanese Government* v. *Peninsular and Oriental Steam Navigation Co.* in 1895 [2] he had to discuss the question as to jurisdiction of consular courts to entertain actions against subjects of the country by way of counterclaim. He appeared in *Salomon* v. *Salomon & Co.* in 1897,[3] the "one-man company" case, and in the well-known case of *Allen* v. *Flood* in 1898 [4] he had to deal with the law as to interference with trade—a subject in which he took much interest in later days and on which he was a high authority. In *Spilsbury* v. *Reg.* in 1899 [5] he argued the very different question of the procedure of the Supreme Court of Gibraltar. Amongst others may be mentioned the *Royal Exchange Shipping Co.* v. *Dixon & Co.*,[6] in which the counsel engaged were Davey, Haldane, Russell, Cohen, French, and Gorell Barnes; the *Merchants' Bank of Canada* v. *Lambe*,[7] a case on the construction of the British North America Act; *The Sanitary Commissioners of Gibraltar* v. *Orfila*,[8] *The Duke of Buccleuch*,[9] *Ss. Utopia* v. *Ss. Primula*,[10] *South Africa Co.* v. *De Beers Mines*,[11] *Fielding* v. *Thomas*,[12] *La Bourgogne*,[13] *De Beers* v. *Howe*,[14] and *Webb* v. *Outrim*.[15] All these were cases of the first importance; there were many more of the same kind in which Cohen appeared, and it is only necessary to look at the reports of cases decided in the House of Lords and in the Privy Council to see the number of occasions on which he helped to make the law; but those to which reference has been made are enough to illustrate the scope of his practice. And in addition to these there were the Indian appeals before the Privy Council in which he appeared frequently, even up to the last year or two of his life, as the Law Reports of those appeals testify. He was one of the counsel in the Jameson Raid Inquiry; and his work extended beyond the courts of this country. He appeared, with distinction, before international tribunals, and was consulted on questions arising on the Law of Nations. He was retained in 1872 to assist Lord Selborne in the presentation of the British case before the Alabama Arbitration Court; again in 1903 he represented Great Britain before the Hague Tribunal in the Venezuelan claims case. He is known to have advised the Foreign Office in the arbitration known as the Costa Rica Packet case.

[1] L.R. [1893] A.C. 602.
[2] L.R. [1895] A.C. 644.
[3] L.R. [1897] A.C. 22.
[4] L.R. [1898] A.C. 1.
[5] L.R. [1899] A.C. 392.
[6] L.R. [1886] 12 A.C. 11.
[7] L.R. [1887] 12 A.C. 575.
[8] L.R. [1890] 15 A.C. 400.
[9] L.R. [1891] A.C. 310.
[10] L.R. [1893] A.C. 492.
[11] L.R. [1895] A.C. 451.
[12] L.R. [1896] A.C. 600.
[13] L.R. [1899] P. 1.
[14] L.R. [1906] A.C. 455.
[15] L.R. [1907] A.C. 81.

His pre-eminence was acknowledged in many branches of the law, but it was specially marked, as has been already observed, in matters of commercial law; indeed, it is not too much to say that in his prime Cohen obtained a position in those matters which was almost unique. One of the most eminent of living City solicitors, who knew him at that time, writes of him in the following terms: "It was my privilege to know him intimately for thirty-five years. I use the term 'privilege' advisedly, for no one could be brought into contact with a man of his character and attainments without thinking at any rate that he had benefited by the experience. Within my recollection of the Bar no man ever held the same position in the estimation of shipowners, underwriters, and merchants, and their solicitors, as did Cohen in his prime. It was the commonest thing in those days for solicitors in the City who could not agree upon the legal rights of their respective clients to submit the matter in dispute upon an agreed case to Cohen, and to agree to be bound by his decision. His opinion on any question of commercial law and especially upon any question of shipping or insurance law was readily accepted by commercial men and their solicitors as conclusive. He was slow, it was useless to hurry him: that is the reason why his practice never attained the dimensions of that of other, and far inferior, men. But he acquired a position of pre-eminence in the estimation of the commercial world, such as no other man in my experience ever approached." His methods of work were marked by deliberation, but they were very thorough. The late Lord Justice Mathew, a great rival in commercial law, once said of him: "Cohen digs and digs, and generally finds gold. I scratch the surface and sometimes find it."

Such was the nature of Cohen's work; and it must be said of it that few men have attained a higher reputation at the Bar for the width of their learning or for their grasp of legal principle. He might, had he so chosen, have been long ago upon the Bench, but the claims of politics and perhaps some natural diffidence, prevented him from taking the opportunity when it came, and it did not come again. Cohen, however, was not conspicuous in the qualities which go to make a successful judge of first instance; it is hardly possible to imagine him presiding over an action for breach of promise or a prosecution for petty theft. His place should have been in the highest courts of appeal, and it is to the permanent loss of the nation that he was never a member either of the House of Lords or of the Judicial Committee of the Privy Council.

But if that promotion did not come to him, at least he secured a full share of the highest honours that can be enjoyed at the Bar. He was Judge of the Cinque Ports, Counsel to the India Office and to Cambridge University, and was a Privy Councillor. He was appointed a member of the Royal Commissions on Unseaworthy Ships, and Trade Disputes, and Chairman of that on Shipping Rings. And though he was never in a position to expound the law from the Bench, he was wont to give his opinion to the

public on those questions of the day which lay within his interests, with accepted weight and authority. His lectures on the Declaration of London and on the proposal to abolish the right to capture private property at sea are among his more recent utterances which are attracting general attention to-day, and it is an especial matter of regret, from this point of view, that his life has been ended at a time when so many questions have arisen, upon which he could have spoken with exceptional authority. He was responsible for the article on insurance in Lord Halsbury's "Laws of England," the most complete written work which he has left to us, and one necessarily of the highest authority on the subject with which it deals.

Great lawyer as he was, Cohen was never a great advocate. His mind was too judicial, his method was too deliberate, to enable him to deal readily with the quick processes of modern argument. If a simile of the time may be permitted, his attack was that of the heavy howitzer rather than of the more mobile field gun which can be turned about to meet the changing phases of the battle. But these defects, if defects they were, sprang from the very clearness of his intellect. He saw one logical sequence and would not be diverted from what he held to be the true line of argument. A member of the Judicial Committee, before whom Cohen often appeared as advocate in Indian appeals, writes of him: "His characteristic as a lawyer was his strong instinct to find always a broad principle to govern the case in hand, and he generally succeeded; and I am not sure whether that is not really the difference between a great lawyer and a lesser one. That perhaps is part of the reason why his arguments before the Privy Council were so helpful, more so to me than those of any other man at the Bar. He will be a great loss."

His utterance was impressive, he had a fine presence and a courtly manner. He was by nature modest, and his success was due solely to his own merits. He secured the respect and esteem of all those who were brought in contact with him. "His dignity, his courtesy, and deference to those far below him in intellectual calibre"—we quote again from the authority to whom reference has first been made—"his breadth of view in all questions, his freedom from pettiness and uncharitableness, his generosity, his real kindness of heart, his freehanded and even lordly disregard of financial consideration, these are qualities which are not often combined in one man as they were in him." By his death the nation has lost a publicist of great repute and his friends one for whom they will always cherish the most affectionate feelings.

SOUTH AFRICAN NATIVE LAND LAWS.

In connection with the passing of the South African Native Lands Act, 1913, Mr. E. L. Matthew, C.M.G., Law Adviser to the South African Department of Justice, prepared an admirable report,[1] of which the greater portion is here reprinted on account of its clear explanation of the tenure of land by natives throughout the Union :

Existing Law.—Subject to certain special exceptions, to which reference will immediately be made, land in Cape Colony and in Natal, which has not been reserved for the exclusive occupation of the native races, may be held in freehold or upon lease, without distinction of race. In the Transvaal, during the time of the Republic, land could be acquired by a native, but, when so acquired, was customarily held in trust for the native by an officer of the Government. This was due to the terms of the Conventions of Pretoria and London in 1881 and 1884. That practice prevailed for three years subsequent to the war. In April, 1905, the Supreme Court of the Transvaal held that an aboriginal native was entitled to claim transfer (*i.e.* registration in his own name) of any land of which he was the owner. In the Orange Free State it was definitely laid down by statutes passed in the days of the Republic, and still upon the statute book, that coloured persons, with certain exceptions, may not purchase or lease land.

The exceptions to which I referred above are as follows :

(1) In certain townships of Zululand land may not be sold to natives.
(2) Certain lands in Natal are set aside for European immigration purposes and those may not be transferred to natives.
(3) Under the Land Settlement Acts passed in the Transvaal and Orange River Colony after the war provision is made for their occupation by white persons only.
(4) In urban areas throughout the Union under local Government laws provisions exist for the creation of native locations, and, in the case of the Transvaal, for compelling natives in the local Government area to reside in that location. That would not, however, take away a native's right to purchase land.
(5) In the Free State half-castes born of a lawful marriage may buy and sell land, provided they reside thereon, and certain persons called bastards, who had been in the Free State five years and of satisfactory conduct, can buy erven in towns. Rights of inheritances were also saved to the descendants of those who held land when the law came into operation.

On the other hand, large areas have in times past been set aside or recognised as available only for the occupation of natives.

[1] Correspondence relating to the Native Land Act, 1913, Cd. 7508.

Position of Native Reserves.—In the Cape the principal of these are in what are commonly called the Transkeian native territories. By means of those legislative powers possessed by the Government . . . it was possible to prohibit Europeans from acquiring holdings, except with the special consent of the Government, and that special consent was given only for good cause, *e.g.* where the purposes of acquisition were necessary trading sites, churches, or schools. The townships laid out round the Transkei Magistracies did not, however, fall within this prohibition.

In Natal certain location lands exist which are vested in the Natal Native Trust which was constituted by Royal Letters Patent of April 27, 1864. The members of the Government of Natal for the time being were the trustees, the lands were vested in them for purposes connected with the support, advantage, or well-being of natives. A similar trust of later date exists by virtue of a deed of grant of one of the Governors of Natal.

In the Transvaal the Pretoria Convention of 1881 between the British and Republican Governments had provided for a Native Location Commission which should define the boundaries of the locations to be reserved for natives. The Republican Government, however, found it more convenient to appoint local Commissions. These local Commissions sat, but had not completed their labours when the war broke out in 1899. They had, however, set aside considerable areas for the exclusive occupation of natives, and their work was resumed by the Crown Colony and responsible Governments in the eight years succeeding the termination of the war.

In the Orange Free State there are two locations: (1) at Witzieshoek, which owed its origin to the fact that in 1867 a certain native chief desired to become a subject of the Orange Free State, and the land known as Witzieshoek was assigned to him; (2) at Thaba 'Nchu, where certain farms have been used as locations for the Baralongs since the annexation of their territory by the Free State Government in 1884.

These may be taken to be the chief native reserves of South Africa, though there are others. When I come to point out the effect of the provisions of the new Act, the relative position of these reserves in the general scheme of segregation will be more apparent.

Constitutional Safeguard of Native Reserves.—In connection with the native reserves, the only other thing to which attention need be drawn in the historical survey is the fact that when responsible government was granted to the Transvaal the position of the natives' reserves therein was entrenched. Clause LI. (3) of the Transvaal Constitution Letters Patent, 1906,[1] prescribed that no lands which had then been or might thereafter be set aside for the occupation of natives should be alienated or in any way diverted from the purposes for which they were set apart except in accordance with a law passed by Parliament. This has always been interpreted as an Act of Parliament specifically referring to the particular lands and specifically stating the alienation proposed. The same clause was inserted in the Orange River Colony Constitution Letters Patent.

In Cape Colony the reserves were safeguarded by the understanding which existed between Her late Majesty's Government and the Cape Government when the native territories were annexed, while, in Natal, the Native Trust referred to above was a sufficient protection to the reserves. Since Union the position of all the reserves may be said to be safeguarded by the latter part of s. 147 of the South Africa Act, which is in identical terms with the clause of the Transvaal and Orange River Colony Constitutions just cited.

[1] See [Cd. 3250], December, 1906.

Squatters Laws.—A *resumé* of the Provincial laws relating to occupation of land by natives would be incomplete unless some account were given of the Squatters Laws. What is known as "squatting" probably originated in the residence of natives upon Crown land before the same had been either—

(1) formally set apart for native occupation; or
(2) given out to Europeans by deed of grant.

In the one case the settlement of the natives upon the land is regarded as not entitled to the recognition accorded to that which is recognised in the properly constituted native reserve. In the other case, Crown lands had been disposed of to Europeans, and the natives who were then on the land were left to make the best terms they could with the new owners. By them the natives were very naturally not disturbed, their labour being an asset. Generally, an arrangement was entered into—sometimes tacitly—whereby the natives paid money or produce or undertook to work for the owner at periodical times or to cultivate particular pieces of the land, in consideration of their being left undisturbed on other portions of the property. It is a system which undoubtedly was found profitable to farmers and even gave rise to speculation in both Crown and private land by Europeans. It is obviously a bad system for both the European and native races. It encourages the absentee landlord on the one hand, while the insecurity of tenure tends to restrict the progress of the natives and leads to a poor form of agriculture. Added to this is the fact that considerable areas of land become occupied by natives which could otherwise be better developed.

Each of the territories now included in the Union recognised these evils and at different times enacted laws to cope with them. The only one of these laws which can be said to have fulfilled its objects was Act No. 30 of 1899 of the Cape, which has now been superseded by the Private Locations Act, 1909,[1] which came into operation a few months before the establishment of Union. The principles of these Acts are that a limit is set to the number of natives who may be upon any farm, except in the capacity of owner or tenant. That limit is based upon the working requirements of the land. When the limit is reached in respect of any private property, no additional natives may live there, unless the property is licensed as a private location and the native is recognised as what is styled a "labour tenant" of the location proprietor: the native is neither a servant nor tenant, but of a *genus ad hoc*. This legislation has been, on the whole, successful in remedying in Cape Colony the evils above described, and, further, in securing a more even distribution of labour amongst farmers.

In Natal a very large number of natives live on lands owned by absentee landlords to whom they pay rent. Law No. 2 of 1855 was enacted by the Natal Legislature of the time to prevent unlicensed squatting by natives on both Crown and private lands, and to ensure the annual rendering to the Government of accurate returns of native squatters and their families. The law has for many years been a dead letter; in fact, it is doubtful if it was ever enforced. The same remark applies to Law 15 of 1871 (Natal), which deals with labour tenants on private lands.

In the Transvaal the number of natives allowed in respect of any farm or divided portion of a farm is limited by the Squatters Law (Plakkerswet)[2] to five families. The number may be increased with the special permission of the Government. This law again has never been enforced and in many parts of the Province, particularly in the north and north-east, there are large

[1] Act No. 32 of 1909. [2] No. 21 of 1895.

numbers of natives congregated (outside the native reserves above described) in what are, in fact, unauthorised locations. In fact, it is doubtful if the law could be enforced against the principal offenders—the land companies—as the law refers only to white owners, meaning "individuals," and did not apparently contemplate large speculative investments in land by corporations in more modern times. The natives living on these farms pay to the owners annual rentals in money, produce, or labour, averaging some £2 per annum. They are, therefore, a profitable asset to the land companies and other owners.

In the Orange Free State the number of native squatters permitted on a farm or divided portion of a farm is limited by Law No. 4 of 1895 to five families, but that number may by special permission be increased to not more than fifteen families. Inasmuch as leasing, as well as purchase, of land by natives was, by Chapter XXXIV. of the Free State Law Book, generally prohibited, and the prohibition rigidly enforced, it might have been expected that with these two Laws the squatting evil would not exist in that Province. That it does exist is due possibly to other causes, and these are, I think, to be found in a certain defect in draftsmanship, not in the original laws, but in amending Ordinances passed in the time of the Crown Colony Government, and are further to be found in a decision of the Courts. The defect was in the remodelling of the Masters and Servants Laws by Ordinance No. 7 of 1904, when a reference to the existing laws was repealed. The decision of the Courts referred to was that a certain class of squatting agreement did not constitute a lease for the purposes of Chapter XXXIV. of the Law Book. For some years past, therefore, viz. since 1904 or 1905, the squatting evil has grown up in the Free State.

These squatting laws have been discussed at some length in this report, owing to the fact that the enactment of the Act of 1913 was largely due to the failure to enforce them and owing to the consequent danger felt by a certain section of the farming community on the growth of the squatting evil.

Difficulties of Enforcing Squatters Laws.—The bearing which the squatters laws have upon certain provisions of the new Act will be shown later in this report. There have been, however, in the past three practical difficulties in enforcing the existing squatters laws in the Transvaal, Natal, and the Free State:

(1) Their inherent defects;
(2) The fact that political power has generally been in the hands of those who had no particular interest in seeing that they were enforced, but whose immediate interests on the contrary had been, as the mines more and more attracted native labour, that squatting should be permitted;
(3) That if the laws were enforced after being in abeyance for many years, large numbers of natives would be dispossessed and have nowhere else to go.

It will be seen that the stage of further inquiry as to principles had long gone by. In fact an Inter-Colonial Commission had made very exhaustive inquiry in 1903 and 1905.[1] This Commission, which was appointed by Lord Milner as High Commissioner, had been the outcome of a resolution passed at the Bloemfontein Conference in March, 1903—an inter-colonial conference called to discuss many matters, such as railways, customs, and native affairs, which were of common interest to South African Colonies and territories. The

[1] The Report of the South African Native Affairs Commission is printed in [Cd. 2399].

particular resolution referred to a possible coming federation of South African Colonies and recommended the appointment of a representative South African commission to gather accurate information relating to natives and native affairs, so as to arrive at a common understanding on questions of native policy. Among its six terms of reference was labour and the tenure of land by natives.

Its recommendations, or those of the majority, upon this term of reference may be summed up as follows:

(1) That, in the interests of both Europeans and natives, purchase of land by natives should be limited to certain areas to be defined by legislative enactment;
(2) That whatever principles govern the question of purchase of land by natives should apply equally to the leasing of land by natives;
(3) That unrestrained squatting of natives on private farms, whether as tenants or otherwise, is an evil, and that the principles of the Cape Act of 1899 should be adopted for dealing with it;
(4) That purchase of land which may lead to tribal or communal or collective possession of land by natives, as opposed to individual ownership, should not be permitted.

The last recommendation may be dismissed from present consideration, as, although in the draft of the Bill for the Act of 1913 clauses were inserted to give effect to it, it was deleted from the Bill in its final form. The subject is one which would appear to necessitate an Act to itself, particularly if regard be had to the system evolved in part of Cape Colony by the Glen Grey Act.[1]

Effect of the Native Land Act, 1913.—But the first three recommendations just summarised embody the principles adopted in the new Act. The Commission had sat for two years, had sat in every important centre of South Africa, had heard numerous witnesses, and had presented an exhaustive report. It was also representative of every Colony or territory. No further inquiry was therefore needed as to principles, assuming that the facts and circumstances I have described rendered legislation desirable. Where, however, further inquiry is necessary is as to what particular parts of the Union can be conveniently reserved for European occupation, and, assuming that additional native reserves will thereby become necessary, where they should be situate.

Delimitation Commission.—It will be convenient, therefore, to refer first to ss. 2 and 3 of the Act, which provide for a Delimitation Commission to set apart, respectively, areas exclusively for European ownership and occupation, and additional native areas.

At the same time it was obvious that the continuance of the *status quo* while the Commission was carrying on its work could not be allowed. Uncertainty would exist as to what areas were likely to be affected by the segregation proposals. Speculation would ensue, the chief sufferers from which would be the existing native owners and tenants outside the present native reserves.

The native reserves have therefore been scheduled, and outside of them it will not be possible until Parliament has acted upon the Commission's report for a native to purchase or lease land from a European or *vice versa*: and by "land" is meant not only the freehold or leasehold rights, but any rights of servitude or of any such interests as a mortgagee possesses.

There must necessarily be cases where exceptions should be made to this

[1] No. 25 of 1894.

general rule, as in the case of trading sites, schools, and churches in the native territories. Accordingly, following the precedent in vogue in regard to land in the native territories, power is reserved to the Government to consent to land transactions between native and European during the *interim*.

Native Reserves.—It has been definitely laid down in the Act that land in native reserves shall be in the converse position as regards purchase and lease. No doubt by the Transvaal and Orange River Colony Constitutions and by s. 147 of the South Africa Act alienation of land set apart for native occupation necessitated a special Act of Parliament. But it was by no means certain in every case what lands were included in the reserves. Each farm affected, as the result of investigation, has been scheduled in the Act and the rights of the natives under the Constitution and South Africa Act have been thus doubly entrenched against acquisition by Europeans. Even as regards the power reserved to the Government to give consent to the acquisition by a European of land in a native reserve, s. 8 (1) (*j*) contains a clause specially saving the provisions of the Constitutions and the South Africa Act. The general effect of the Act as regards the native reserves is, therefore, that the existing practice in the Transkeian and Cape native territories is crystallised into law; for the existing native reserves are not the subject of the Commission's inquiry save in so far as the Commission may recommend additions to them.

Expropriation.—To establish European areas or additional native areas powers of expropriation or compulsory purchase will be necessary. This power is conferred by s. 4.

Squatting.—The Squatters Laws are not repealed; in fact, they are expressly kept alive by s. 6, but the provisions of the Act are super-imposed upon them, and in the event of a conflict the Act will prevail. One of the clauses of the Act relates to the Transvaal (proviso to s. 6). It is in the Transvaal where the squatting evil has existed to the greatest extent. On the other hand, it is impossible to dispossess these squatters, many of whom, or their progenitors, have been on the land from time immemorial. If, therefore, natives are farm labourers (*i.e.* when their occupation of land is due to agreements of service, the test of which is ninety days' service per year and the absence of any payment in money or kind for the use of land), there will be no limit to the number who may reside on the property. Where, on the other hand, the existing natives are not such farm labourers, they are saved from dispossession till Parliament acts upon the report of the Commission, *i.e.* until other suitable land is found for them by the creation of additional native reserves. Whether in any individual case a native family will have the benefit of this provision depends on his being registered for taxation or other purposes with the Native Affairs Department. All such existing natives would be so registered.

Free State Natives.—The provisions of the Free State Laws, both as to the restriction on the purchase and leasing of land by natives and as to squatting, are expressly kept alive, but the drafting defect in Ordinance No. 7 of 1904 referred to above [1] has been remedied, and the native families who up till the date of that Ordinance were undoubtedly servants and came under the Masters and Servants Laws will resume the position of servants. The only practical effect of this is that certain numbers of natives who on the strength of the defect in the law, which was pointed out in a decision of the Court, came from other territories—principally Basutoland—and squatted in the Free State, because they could no longer be regarded in law as servants,

[1] *Supra*, p. 12.

will either have to remain there as servants or return to whence they came. They are almost invariably natives who have other land to which they can return in the territory from which they came. The decision did not affect in practice the Free State native proper who has remained on the farm actually, though not legally, in the position which he held before 1904.

The effect of the other decision of the Court that "leasing" in Chapter XXXIV. of the Law Book did not include squatting agreements has been remedied. The position of the native in the Free State under the Act may be said, therefore, to have become precisely as it was prior to 1904, a position which was altered then by accident and not owing to any set policy.

The Witzieshoek and Thaba 'Nchu native reserves in the Free State are scheduled as native areas in the Act, and their position is therefore entrenched to the extent described in a paragraph which discussed native reserves.

Saving of Existing Rights.—An Act of this nature must necessarily be full of exceptions and exemptions. There has been naturally a desire to avoid interfering with rights acquired before the passing of the Act. Such rights are safeguarded by s. 8 (1) (*a*) and (*b*), and include also rights to renew a now existing lease and rights to complete a now uncompleted agreement of purchase.

Acquisitions of land which may in future be brought about involuntarily, *e.g.* by succession on death, are likewise saved (s. 8 (1) (*c*)). Further, it is desirable in the public interest that no obstacles should be placed upon the acquisition of certain minor interests in land, such as water rights under the irrigation law, mineral rights under the mineral laws, the right under bonds over land to secure those fencing and dipping tank loans which are made under the Stock Diseases Prevention Acts (s. 8 (1) (*e*), (*f*), and (*k*)).

Again, missionary societies have, prior to the Act, acquired land for mission station purposes, with the express object of selling or letting small plots to natives within those stations. Similarly with regard to land already acquired for native townships (s. 8 (1) (*h*) and (*i*)).

Further, the Act will not apply within urban areas which are under the jurisdiction of a local authority. Mention has already been made of the limited segregation of natives which takes place in towns and populous centres by reason of the fact that the local authorities thereof have powers to establish native urban locations and, in some cases, to compel residence in those locations.

The last but most important exemption is contained in s. 8 (2), and, in effect, exempts so much of Cape Colony as is outside the native territories entirely from the restrictive provisions of s. 1 of the Act. The reason for this is as follows:

The native franchise that existed in the Cape was entrenched by s. 35 of the South Africa Act, the effect of which was that a disfranchising Bill on the ground of race or colour must be passed by a two-thirds majority of both Houses sitting together. By a "disfranchising Bill" is meant a Bill which destroys the electoral rights of—

(*a*) persons who are not on the register of voters when the Bill passed, but are qualified to be;

(*b*) persons who are not then on the register or qualified to be thereon, but who may become entitled thereafter.

Further, the same section safeguards the rights of persons who are then on the register. One of the two qualifications for the franchise in Cape Colony

is the occupation of land. If, therefore, any person could by any law be precluded from being the legal occupier of land, his franchise rights in the particular place where he held the land would be diminished if not abrogated. No doubt the Natives Land Bill was not a law prescribing the qualifications of voters, but the effect would certainly be that if it applied to Cape Colony proper, natives would be deprived of the right to acquire one of the qualifications for voters, and if they could be deprived of the right to possess the occupation qualification, without the two-thirds majority of s. 35 being obtained, they could equally be deprived of the right in particular areas to obtain the other qualification, viz. wages or income. As the Government was, of course, not prepared to propose alterations of the franchise laws directly, it was felt that no alteration which would apparently have the effect of altering them indirectly should be made. Conversely, this saving clause applies equally in favour of Europeans in the event of additional native areas being set apart in Cape Colony and in favour of those Europeans who may be permitted to go into native territories.

TRADING WITH THE ENEMY.

[*Contributed by* G. G. PHILLIMORE, ESQ.]

THE effect of war on the commercial rights of individuals is a question which has its international as well as its municipal side. International law has not so far dealt with it except as incidental to the subject of the effect of the military occupation of a hostile country in the section of the Hague Convention of 1907 regulating the effect of war on the juridical and proprietary rights of the private individuals belonging to the hostile country. Our municipal law (legislature and courts) on the other hand, has been busy, since the present war began, in defining the position of enemy subjects and in preventing intercourse between them and our own subjects. The latter is now familiar to us as "Trading with the Enemy," which has been described by Dr. Schuster as "a subject as to which there is very little literature and on which no exhaustive treatise exists." [1] There have, however, been a number of books produced since the beginning of the war dealing with the effect of war on commerce, of which some may be briefly noticed.

Recent Works.—Dr. Schuster's little work, which, its author explains, is a pamphlet written more than twelve months previously, is a contribution of considerable practical value to the study of the question under consideration. He discusses such difficult points as the effect of war on a partnership between subjects of the two belligerent countries, in which he differs from the view hitherto rather taken for granted, that war dissolves the mutual relations of those persons, by regarding this point as still open and not determined judicially; and the effect of war on shares held by alien enemies in English companies. He regards as unsuitable to these times the absolute prohibitions against intercourse between enemies laid down in the judicial decisions of 1800 and 1802,[2] and the denial of a *locus standi in judicio* to alien enemies in 1794.[3] In connection with the payment of cheques or bills of exchange to which alien enemies are parties and in which British subjects are interested, he suggests that in the interests of international commerce insistence on the rigid rules of non-intercourse may be only injurious to our own countrymen and not to alien enemies.

Messrs. Clements and Waterson's little book,[4] intended as a book for

[1] *The Effect of War on Commercial Transactions* (London: Stevens & Sons). [A second and enlarged edition has been published.—Ed.]

[2] *Potts* v. *Bell*, 8 T.R. 548; and *Furtado* v. *Rogers*, 3 B. & P. 191.

[3] *Brandon* v. *Nesbitt*, 6 T.R. 23.

[4] *Commercial Law in War Time* (London: Dawson & Sons). The first chapter deals with trading with the enemy.

business men, perhaps has a wider scope and a more general survey of the whole subject than the others. It deals specifically with certain branches specially interesting to business men—viz. maritime law in war time or the law of prize, insurance, marine and general, and the effects of the moratorium. As a working guide for practical purposes it should be of real assistance to commercial men, but it does not discuss the various legal questions just mentioned. One exception which the authors indicate to the general rule that contracts with enemies are void—namely that in favour of contracts made with an alien enemy for supplying the British forces—seems to require the explanation that the contract is made with or for the benefit of the State, which is therefore no less bound to pay the price than it is bound to satisfy its debts to foreign shareholders of its public loans.

Mr. Page's book [1] deals with the relation of the State to the persons of alien enemies and their property on land and at sea, contraband of war, and the right of those persons to contract or trade. He emphasises usefully the difference between the personal and civil status of such persons, with their respective standards of nationality and domicil. He would restrain the definition of Lord Lindley in *Janson* v. *Driefontein Mining Co.*[2]—that during war domicil (place of business) and not nationality of a person is important—to transactions connected with that country only, if he is not personally resident there. Residence as well as trade is required to make domicil equivalent to nationality as a general test.

One may perhaps criticise the omission of patents in the account of the trading rights of alien enemies, and find inadequate the authorities cited for the statement that permission to such persons to continue resident is equivalent to an implied licence to trade. Whether, as here laid down, in an occupied territory the occupying Power has the right to take hostages in order to secure payment of impositions upon the population is similarly uncertain: for such a vicarious responsibility is inconsistent with the prohibition in the Hague Convention on Land War, 1907, to inflict a collective punishment for the acts of individuals; but on the other hand there is authority for regarding as well founded the propositions that the detention of alien enemies at the outbreak of war and the confiscation of the property of such persons (though not such property found in the country at the outbreak of war), though extreme measures, are not breaches of international law.

Mr. Lowry's pamphlet [3] on Martial Law within the realm of England is sufficiently cognate to the question of the position of enemies within the realm to be noticed here. It is a *resumé* of the chief authorities on the subject, beginning with the Court of Chivalry or Court of the Earl Marshal as the fountain of martial law, and including the utterances of Lord Chief Justice Cockburn and Mr. Justice Blackburn in the cases arising out of the Jamaican

[1] *War and Alien Enemies* (London: Stevens & Sons).
[2] L.R. [1902] A.C. 484.
[3] London: John Long.

rebellion of 1866, and the Irish Court of King's Bench in *Wolfe Tone's Case* in 1798, which were considered some years ago in this Journal by the present writer.[1] The recent Defence of the Realm Act and the regulations thereunder have made espionage an offence triable by a military court or a court of summary jurisdiction, with a maximum penalty of penal servitude for life, or if the Court finds that the offence was committed with the intention of assisting the enemy, by death or any less punishment.

Mr. Leslie Scott's work [2] is a new edition of a valuable paper on the effect of war on private contracts contributed to the Conference of the International Law Association in Madrid in 1913, setting out concisely the actual English law. Dr. Alfred Sieveking, advocate of Hamburg, on the same occasion contributed a paper on the subject, which is remarkable for its careful study of the English law and its analysis of the whole problem. He suggests the international adoption of the English rule of non-intercourse, with modifications required by present international conceptions and agreements such as the Hague Conventions. On the same occasion Dr. B. C. J. Loder, a judge of the Supreme Court of Holland, advocated the sanctity of private contracts during war on the ground that according to modern international conceptions, *e.g.* the Hague Conventions, the private obligations of individuals should not be affected by the public relations of States.

A short review of the legislation and judicial decisions connected with this subject may be of service in elucidating the position of alien enemies in the two distinct branches of (1) the position of enemies within the realm, and (2) the relations of residents within the realm to enemy persons outside its limits; and (3) the effect of the rule of non-intercourse upon transactions by either belligerent with neutrals; though with a subject of which the aspect is constantly changing no claim to finality can be made.

I. Enemies Within the Realm.

Questions with regard to the position of enemies within the realm chiefly relate to the persons of enemies and their proprietary interests here. The Executive Government under special *ad hoc* statutory powers has taken action against the persons of alien enemies (subjects of Germany, Austria, and Turkey) within the realm by registration, prohibition to reside in specified areas, prohibition to travel more than five miles from the registered address without permission, segregation and surveillance in order to guard against espionage and other military dangers, and the detention of such persons of military age brought within the realm.

Change of Name.—Under the Aliens Restriction Act 1914, and the Order-in-Council which gives effect to the statutory powers, it has been enacted that an alien enemy must not after October 12, 1914, change his name from that by which he was ordinarily known at the date of the

[1] "Martial Law in Rebellion," Journal, vol. ii. pp. 45-72.

[2] *Trading with the Enemy.* (London: Stevens & Sons.)

commencement of the war. The prohibition applies also to a trade or partnership name. But a woman who, after the commencement of the war, marries an alien enemy, can use the name which she acquires on her marriage. The Secretary of State may grant exemptions from these provisions.

Banks.—An alien enemy may not carry on any banking business except with the written permission of a Secretary of State, and to such extent and subject to such conditions and supervision as he shall direct; and an alien enemy (which means members of firms and directors of companies) who is or has been carrying on banking business shall not, except with such permission, part with any money or securities in the bank where he is or has been carrying on business, and shall, if so, deposit any money or securities in such custody as the Secretary of State may direct.

Newspapers, Clubs, Possession of War Munitions, etc.—The circulation among alien enemies of newspapers or periodicals wholly or mainly in the language of a State, or any part of it, at war with Great Britain, is prohibited, except with like written permission. The Secretary of State can close clubs frequented by alien enemies. Alien enemies are forbidden to have, without the like permission, firearms, petroleum, spirit, etc., apparatus for signalling, carrier or homing pigeons, motor cars and cycles, etc., ciphers, telephone, photographic apparatus, and military and naval maps and charts.

Juridical Rights.—The common-law rights of subjects of the nations opposed to us have already come under the consideration of the Courts, such as the right of recourse to the Courts. There has been a reaffirmation of the old rule that enemy aliens have no *locus standi* in our Courts, but the limitations of the rule have been shown by the decision in the Chancery Division that an alien enemy, if registered under the recent Act, has a right to sue in our Courts,[1] and by a judgment in the King's Bench that an action brought against an alien enemy on a pre-war contract is not suspended by the outbreak of war. The ground of this last decision is that, although an alien enemy, if objection be taken, and perhaps if no objection be taken by the defendant, cannot sue as a plaintiff or proceed with a pending action while hostilities continue, or prosecute a counter-claim—otherwise what the law intended as a disability would become a relief to such persons—yet that such persons can appear and defend the action personally or by counsel, for a refusal of this right would be opposed to the fundamental principles of justice.[2]

In the Court of Appeal the capacity of aliens to resort to the general procedure of the Courts has been raised in a variety of forms—*e.g.* whether an alien enemy can be sued, whether he can bring an appeal in proceedings begun before the war, whether substituted service of notice of a writ can be

[1] *Princess Thurn and Taxis* v. *Moffitt*, 31 Times L.R. 24.

[2] *Robinson* v. *Continental Insurance Co. of Mannheim*, 31 Times L.R. 20.

had against him, etc.[1]—and there seems reason to expect an affirmative answer in each case. The Attorney-General as *amicus curiæ* submitted to the Court:

(1) that as to what was an alien enemy, residence or carrying on business, and not nationality, was decisive according to the *Driefontein case*, and an alien enemy commorant in this country with an express or implied licence from the Crown or under the Crown's protection was not an alien enemy;

(2) an alien enemy could not maintain an action except by licence of the Crown express or implied;

(3) if he was in this country, whether with or without licence, he was not exempt from being sued like any other person;

(4) if brought before the Court he had the same right to employ counsel and solicitors and also to appeal as any other defendant;

(5) the same rules applied to an alien enemy as to service of writ or notice of writ as to any other foreigner:

(6) the method of service out of the jurisdiction (Order 11, Rule 8) was not in fact applicable in case of war, and if the defendant could not be served personally, substituted service should be allowed, *e.g.* service on any person left by an alien enemy in charge of his business, either alone or combined with other methods; otherwise service by post through a neutral country if there was any reasonable probability of its coming to the knowledge of the person to be served; but it was anomalous that (under Order 48A) service could be effected on the manager of alien enemies carrying on business under a firm name.

The Court of Appeal has also ruled that a claim cannot be made by an agent for an enemy's business, by reason of having received a power of attorney from his principal, to be appointed a receiver of the business for the purpose of satisfying the principal's creditors in this country.[2]

The right of appearance is of special importance in prize proceedings where process is against the *res*, the enemy-owned ships or neutral ships with cargo enemy-owned or neutral-owned and contraband of war. In the United States it seems that he can appear and contest the allegations of the libel,[3] and can be sued and exercise all the usual means of defence in other cases.[4]

The present Prize Court has decided that by the spirit, if not the letter, of the Hague Convention the alien enemy can appear to claim his property.[5] The following passages in the judgment of the President (Sir Samuel Evans) may be cited:

In the *Marie Glaeser*[6] an appearance in the proceedings was entered for the

[1] *Porter* v. *Freundenberg*; *In re Merten's Patent*; *Kregslinger* v. *Samuel*. *Times*, Nov. 20, 25, 26.

[2] *Maxwell* v. *Grunhut*, 31 Times L.R. 79.

[3] *U.S.* v. 1756 *Shares of Stock*, 1865, 5 Blatch. 231; Kent, *Comm.* i. 65.

[4] *Ibid.* [5] *The Mowe*, 31 Times L.R. 46. [6] L.R. [1914], P. 221–223.

enemy owners, but at the hearing no one came forward to represent them. It was obvious that no ground could be shown either under the Hague Convention or otherwise against the ship's capture and condemnation ; and I ordered the appearance to be struck out. In the case now before the Court it is contended that the claimant is entitled under the Convention to appear to resist condemnation of his vessel, and to secure that the vessel is subjected only to a decree of detention without compensation during the war, or requisition on making compensation. I will assume that the Hague Convention referred to is in force and applicable.

The principle on which the Prize Court in the times of Lord Stowell and Dr. Lushington proceeded was that no one who was a subject of the enemy could be a claimant unless in particular circumstances that *pro hac vice* discharged him from the character of an enemy, such as his coming under a flag of truce, a cartel, a pass, or some other act of public authority that puts him in the King's peace *pro hac vice*. Otherwise such a person was regarded as totally *ex lege*.

In his argument the Attorney-General submitted two propositions as embodying the result of the authorities in this Court, namely :

(1) Where an owner avowed his enemy character without qualification he was not a *persona standi in judicio*, and was not a person who had a right to be heard ; and

(2) Where a person avowed that he was a subject of the enemy state in general, but had ground for urging that *pro hac vice* he stood in a position which relieved him from the pure enemy character, he was entitled to appear and to be heard ; and that the real question was under which of these two rules a German owner should be regarded when he came before the Court.

In my opinion that submission is well founded and accurate.

Reference was made in argument to cases in the American Courts arising during the Spanish-American War in 1898. On examination it will be found that in almost all the cases where enemy claimants were heard at that time their claims arose in circumstances very similar to those in the class of proceedings which came before the British Prize Court during the Crimean War. But the authorities cited fall short of showing that in the United States any claimant who avowed an enemy character has been allowed generally to appear in their Courts.

Cases which were heard during the Russo-Japanese War in 1904-5 [1] were also referred to, in which liberty was alleged to be given by the Russian and Japanese Prize Courts to enemy claimants, as adding force to the right asserted on behalf of enemy owners in this Court. In each of the cases, however, complete immunity was claimed. All the cases were, of course, before the Hague Convention of 1907.

The Court then considered the question whether the Hague Convention No. VI. of 1907 applied, and ruled that it was not in strictness applicable, because by article 6 its provisions are not to apply except between contracting Powers, and then only if all the belligerents are parties of the Convention, and Montenegro, Serbia and Turkey, had not ratified it ; but the Court expressed the opinion that it would accord with the traditions of this country if steps were taken to make operative the Conventions agreed upon by the plenipotentiaries of forty-five States, and that perhaps the counsellors of the Crown might advise that by proclamation or otherwise this country might declare that it will give

[1] Reported in the *Russian and Japanese Prize Cases*, vol. i. p. 182, and vol. ii. pp. 1, 12, 39, 46, 52, 92, 95, 116, and 354.

effect to the Conventions whether by the literal terms thereof they are strictly binding or not. Assuming that the Conventions are binding—

The Court is faced with the problem of deciding whether a uniform rule as to the right of an enemy owner to appear ought to prevail in all cases of claimants who may be entitled to protection or relief, whether partial or otherwise. This is a matter not of international law, but of the practice of this Court. This Court has the inherent power of regulating and prescribing its own practice, unless fettered by enactment. Lord Stowell from time to time made rules of practice, and his power to do so was not questioned. Moreover, by Order XLV. of the Prize Court Rules, 1914, it is laid down that in all cases not provided for by those rules the practice of the late High Court of Admiralty of England in prize proceedings should be followed, or such other practice as the President may direct. The rules do not provide for the case now arising. I therefore assume that as President of this Court I can give directions as to the practice in such cases as that with which the Court is now dealing.

The practice should conform to sound ideas of what is fair and just. A merchant who is a citizen of an enemy country would not unnaturally expect that when the State to which he belongs, and other States with which it may unhappily be at war, have bound themselves by formal and solemn Conventions dealing with a state of war like those formulated at The Hague in 1907, he should have the benefit of the provisions of such international compacts. He might equally naturally expect that he would be heard in cases where his property or interests were affected as to the effect and results of such compacts upon his individual position. It is to be remembered also that in the international commerce of our day the ramifications of the shipping business are manifold; and others concerned, like underwriters or insurers, would feel a greater sense of fairness and security if, through an owner (though he be an enemy), the case for a seized or captured vessel were permitted to be independently placed before the Court.

From the considerations to which I have adverted, I deem it fitting, pursuant to powers which I think the Court possesses, to direct that the practice of the Court shall be that whenever an alien enemy conceives that he is entitled to any protection, privilege, or relief under any of the Hague Conventions of 1907, he shall be entitled to appear as a claimant, and to argue his claim before this Court. The grounds of his claim would be stated in the affidavit to lead to appearance which is required to be filed by Order III., Rule 5, of the Prize Court Rules, 1914.

In this connection should be noticed the argument that there is now a rule of international law under Art. 23 (h) of the Hague Convention on Land War 1907—which provides that no signatory Power occupying an enemy country's territory can prohibit a belligerent from declaring to be extinguished, suspended or unenforceable in a Court of law the rights of action of the nationals of the hostile party or declare forfeited the rights of the inhabitants to free recourse to the Courts of the country. The British Government has, however, expressly declared its dissent from the proposition that this provision has any application outside its specific province—a country occupied by hostile troops—or that it interferes with the established rule of our law of non-intercourse with the enemy. Dr. Sieveking in the paper above mentioned has accepted this view, though of opinion that the article was intended by its authors to be of general application, because it refers to future action

declaring (*i.e.* by a new law) such recourse to the Courts forfeited: but, as he urges, there is no reason why an alien enemy should not appear in the other enemy's Courts and get judgment, on condition that execution except out of funds in such country should be stayed till after the war.

Property and Commercial Rights of Enemies in Realm.—The proprietary and commercial rights of alien enemies—viz., their participation as partners in firms established in the United Kingdom, their holdings of shares in British companies, their rights under patents granted for the Kingdom, and their position as regards bills of exchange to which they are parties—have received or will require consideration. It has been taken for granted and sanctioned by a Court that war dissolves a partnership between the subjects of the opposing countries, on the ground that commercial relations between the subjects of the belligerent States are prohibited by the declaration of war,[1] following the law of the United States as stated by the Courts of New York.[2] Shares owned by enemy aliens in British companies have been left untouched, but the dividends have been retained pending the war. As regards patents, designs, and trademarks a similar line is taken by the amending Patent Act of 1914, which allows licences to be granted to use patents, licences or trademarks (either for the whole term of the patent on registration or for such less period as the Board shall think fit) belonging to the subjects of any State at war with Great Britain. This phrase applies to persons resident and carrying on business in such foreign State as if they were subjects thereof, and with reference to a company includes any company the business of which is managed or controlled by such subjects or is carried on wholly or mainly for their benefit or on their behalf, although the company is registered in British Dominions.

As regards partnerships between British subjects and enemies, there seems to be no reason why the plan followed in the case of enemy holders of shares should not be adopted, and their interest safeguarded till the peace, when their future relations will be brought up for consideration. The holding of the enemy partner should be treated as a debt due from the British partner, which is suspended during war but will revive when normal conditions are restored. If it is right that the State obligations to enemy creditors should be maintained and put in force again at the peace, it seems to be equally so for engagements between individuals. If the business of the firm is carried out with the help of the enemy's capital, that capital with appropriate interest can be repaid to him at the end of the war. It is submitted that the restoration of ordinary peaceful conditions of commerce and general prosperity will be facilitated if the pre-war business relations are regarded as only suspended and not determined, which would amount to confiscation. The disruption (not suspension) of business relations between

[1] *Esposito* v. *Bowden*, (1857) 7 E. & B. 779.
[2] *Griswold* v. *Waddington*, (1813) 15 Johns. 56 and 16 *ibid.* 464.

the subjects of mutually hostile countries does not affect the course of the war nor its issue.[1]

As regards succession to property of deceased persons, it has been officially intimated that grants of probate and administration cannot be made of the estates of alien enemies, and security must be given by the executors and administrators that no payment will be made to any beneficiaries or creditors resident in the hostile countries, but a moderate sum will be allowed by the Treasury to be paid to enemy subjects resident here at the beginning of and during the war.

International Position of Enemies in the Hostile Country.—There is no rule of international law as to the treatment of alien enemies or of their property here. It is competent and justifiable for a nation to detain such persons found here at the outbreak of war, especially if they are of military utility to their own country as potential combatants if allowed to depart, or possibly dangerous to the country where they are resident by reason of their opportunities for espionage or interference with military arrangements or by doing actual mischief. In the case of commercial persons international practice safeguards their security, and if they are identified with the commerce of the country allows them to continue their business under necessary conditions, or to wind it up. In our own country it may be recalled that by Magna Carta the treatment of foreign merchants found in the realm at the beginning of war "shall be without harm of body or goods until it be known to the King how our merchants in the country at war with us shall be treated, and if our merchants be well treated then theirs shall be likewise with us"; and by 27 Ed. III. stat. 2, c. 17, "in case of dispute between us and the sovereign of any foreign land merchants and others of that land shall not be sent suddenly out of our kingdom and territories on account thereof till warned and a declaration published, and they shall go freely out of the kingdom with their goods within forty days after warning or proclamation, and in the meantime they be not impeached nor let of their passage, or of making their profit of the same merchandises if they will sell them; and in case that for default of wind, or of ship, or for sickness or other evident cause, they cannot avoid our said Realm and lands within so short a time, then they shall have other forty days, or more if need be, within which they may pass conveniently with selling their merchandise as afore is said."

Enemy-owned Property in War.—As regards the property of alien enemies, by the practice of nations which has acquired the character of international law, private property is inviolable, except in so far as military necessities require; and it is obviously desirable—seeing that peace is the normal and war the exceptional and temporary state of things, and in any war there are neutral States whose interests must be interfered with as little

[1] In the Chancery Division this point has been left open in an application to have a receiver appointed for a business carried on by two Englishmen and two Germans, now officers in the German Army (*Armitage* v. *Borgmann*, *Times*, Dec. 12).

as possible—that the existing peace footing of trade and intercourse should be allowed as much recognition as possible, so as to facilitate the re-establishment of freedom of trade when peace is restored. In *Wolff* v. *Oxholm*[1] the English Court declined to recognise the legality in international law of an order of the administration of a foreign State confiscating debts due by its subjects to English traders: and the Hague Convention of 1907 with regard to war on land has expressly stated the inviolability of private property on land. In the case of private property at sea, its confiscation after adjudication by the prize jurisdiction is allowed by international law, if it has an enemy character by reason of its enemy-ownership, or if it belongs to neutrals, when it is of a nature to serve the enemy; but enemies within the realm are for commercial purposes outside the class of "enemies." That this is the view of our Government will appear subsequently.

In the United States it has been stated that the strict rule is that a State has the right to deal as an enemy with persons and property found within its territory at the breaking out of war, and to confiscate the property and detain the persons as prisoners of war; though this has been modified by treaties providing for the safety of these persons and their property, and the modern law of Europe does not recognise it. The law of the United States has been declared by the Supreme Court to be in favour of the ancient and sterner rule, that the sovereign has full right to take the persons and confiscate the property of the enemy wherever found: the question what shall be done with such property found in the country is one of policy rather than law, for the consideration of the legislature, not the courts of law;[2] but the right requires the passing of a special Act of Congress.[3] The right to confiscate debts due to enemy subjects at the declaration of war is governed by the same considerations, though the objection to the right of confiscation is much stronger and the European States have not exercised the right for a long time.[4] The opinion of Kent is, however, that though the United States Supreme Court has so stated the law, and it is therefore competent to the Legislature to enact a law to that effect, it is to be considered as a naked and impolitic right condemned by the enlightened conscience and judgment of modern times.[5]

II. Enemies Outside the Realm.

The relations between persons within the realm and subjects and residents of hostile countries fall within a different category; and the rights of alien enemies resident here are not directly affected by the measures taken to prevent intercourse between Great Britain and the hostile nations. So far as "trading with the enemy" goes no difference is made between aliens (friends or enemies) resident here and subjects, but, as already pointed

[1] 6 M. & S. 92.
[2] *Brown* v. *U.S.*, 8 Cranch. 110.
[3] Kent, *Comm.* i. 56, 60.
[4] See *Wolff* v. *Oxholm*, ubi sup.
[5] Kent, *Comm.* i. 65.

out, alien enemies resident here are liable to have their freedom of action curtailed for reasons of policy. The common law prohibits all intercourse between British subjects and enemies, and the special statutory enactments passed with reference to the present war only emphasise and illustrate the principle. "A declaration of war imports a prohibition of commercial intercourse and correspondence with the inhabitants of the enemy's country, and . . . such intercourse except with licence of the Crown is illegal. . . . The force of a declaration of war is equal to that of an Act of Parliament prohibiting intercourse with the enemy except by the Queen's licence. As an act of State, done by virtue of the prerogative exclusively belonging to the Crown such declaration carries with it all the force of law. It is founded upon the *jus belli* which Lord Coke[1] states to be a portion of the law of England."[2] In the present war a proclamation of August 5 forbids giving financial assistance to the enemy.

Prohibition of Trade with Enemy.—The principle of English law that war breaks off all commercial intercourse between British subjects and those of an enemy foreign State is undoubted. It is stated by Chitty[3] as follows:

> It is the established law of nations, that when war has taken place between two or more states, all commercial intercourse between the subjects of each must immediately cease, unless it be expressly stipulated otherwise by treaty . . . on the principle that war puts every individual of the respective belligerent Governments into a state of mutual hostility, and there is no such thing as a war for arms and a peace for commerce. In that state, all treaties, civil contracts, and rights of property, are put an end to or suspended, and the law imposes a duty on every subject to attack the enemy and seize his property, though by custom this is restrained to those individuals only who have commissions from their Government for that purpose. Trading which supposes the existence of civil contracts and relations, and a reference to courts of justice is necessarily contradictory to a state of war; besides, it is criminal in a subject to aid and assist the enemy, and trading affords that aid in the most effectual manner, by enabling the merchants of the enemy's country to support their Government. Export duties are to be paid when goods are brought from an enemy's country, which is furnishing the very sinews of war to the hostile Government; and such trading would also facilitate the means of conveying intelligence and carrying on a traitorous correspondence with the enemy, which would more than counterbalance any advantage likely to accrue to individuals from such trading.

In *Esposito* v. *Bowden*,[4] a case arising out of the Crimean War, and in *Janson* v. *Driefontein Mining Co.*,[5] a case connected with the South African War, the rule was again restated and its grounds affirmed. It is, however, worthy of notice that until the decision in *The Hoop* and *Potts* v. *Bell* the question was regarded as doubtful, and British underwriters actually insured foreign enemy ships in the Seven Years' War when the disabling earlier

[1] Co. Litt. 11*b*.
[2] *Esposito* v. *Bowden*, (1857) 7 E. & B. at pp. 779, 781.
[3] *Commercial Law*, i. 377.
[4] (1857) 7 E. & B. 779.
[5] L.R. [1902] A.C. 484.

statute had lapsed. It appears that this was due to Lord Mansfield's strong opinion that insurance of every property by British insurers should be allowed for reasons of policy, and for the sake of British interests the question of their legality was never raised while he presided in the King's Bench.[1]

Law of the United States.—The American view is the same. Kent,[2] quoting the passage of Chitty above cited, says :

It is a well settled doctrine in the English Courts and with the English jurists that there cannot exist, at the same time, a war for arms and a peace for commerce. The war puts an end at once to all dealing and all communication with each other, and places every individual of the respective Governments as well as the Governments themselves, in a state of hostility. This is equally the doctrine of all the authoritative writers on the law of nations, and of the maritime ordinances of all the great Powers of Europe. It is equally the received law of this country, and was so decided frequently by the Congress of the United States during the Revolutionary war, and again by the Supreme Court of the United States during the course of the last war. . . . It follows as a necessary consequence of the illegality of all intercourse or traffic, without express permission, that all contracts with the enemy, made during war, are utterly void. The insurance of enemy's property is an illegal contract, because it is a species of trade and intercourse with the enemy. The drawing of a bill of exchange by an alien enemy, on a subject of the adverse country, is an illegal and void contract, because it is a communication and contract. The purchase of bills on the enemy's country, or the remission and deposit of funds there, is a dangerous and illegal act, because it may be cherishing the resources and relieving the wants of the enemy. The remission of funds in money or bills to subjects of the enemy is unlawful. The inhibition reaches to every communication, direct or circuitous. All endeavours at trade with the enemy by the intervention of third persons or by partnerships have equally failed, and no artifice has succeeded to legalise the trade, without the express permission of the Government. . . . It is also a further consequence of the inability of the subjects of the two states to commune or carry on any correspondence or business together, that all commercial partnerships existing between the subjects of the two parties prior to the war are dissolved by the mere force and act of the war itself; though other contracts existing prior to the war are not extinguished, but the remedy is only suspended, and this from the inability of an alien enemy to sue or to sustain, in the language of the civilians, a *persona standi in judicio.* The whole of this doctrine . . . was extensively reviewed, the . . . authorities . . . examined, and the positions which have been laid down established in the case of *Griswold* v. *Waddington.*[3]

In that case reference was made[4] to the New York Acts of 1779 and 1782, by which—

All goods which should be brought from any place within the power of the enemy, without permission from the Executive, should be liable to seizure and forfeiture, as the goods of the enemy . . . and . . . all sales and contracts for the sale of goods, brought from places within the power of the enemy, and clandestinely

[1] *Griswold* v. *Waddington*, (1819) 16 Johns. 464. [2] *Comm.* i. 67, 68.
[3] 15 Johns. 57, and 16 Johns. 438. [4] 16 Johns. at pp. 475, 478, 508.

introduced for sale within this State, and all payments for the same, and all notes and bonds given in such payment, should be null and void from the beginning. It was pointed out that by "trading" in prize law was meant not merely that signification of the term which consists in negotiation or contract, but the object, policy, and spirit of the rule was to cut off all communication or actual locomotive intercourse between individuals of the belligerent States. That intercourse, inconsistent with actual hostility, was the offence against which the operation of the rule was directed. . . . The rigour of the law of war has been mitigated by the practice of all civilised nations. . . . Has the inhibition of commercial intercourse, of pecuniary negotiations, and of fostering the resources of an enemy, unless sanctioned by the Government, ever been removed? No. Why is it continued? For the safety of the belligerent states, to guard against treasonable practices, and to save merchants from temptations to swerve from their allegiance in time of war. A subject of a belligerent cannot be concerned in any commercial establishment among the subjects of the other without being deemed an enemy with reference to such concern; nor can he be concerned in any such trade, indirectly or circuitously through the intervention of a neutral port or through the agency of a third person: the doctrine that war does not interfere with private contracts is not to be carried to an extent inconsistent with the rights of war; there is no difference between a direct intercourse between the enemy countries and an intercourse through the medium of a neutral port.

It is, however, to be remembered that the rule is not one of international law, but of municipal law; and it is therefore open to States which recognise it to modify it at their discretion or to nullify it by a liberal system of licences; and *a fortiori* an international agreement can make a new position.

Trading with Enemy Act.—The Trading with the Enemy Act 1914 (c. 87) imposes penalties on trading with the enemy, which is defined as entering into any transaction or doing any act prohibited by any proclamation issued by His Majesty dealing with trading with the enemy for the time being in force or which at common law or by statute constitutes that offence (s. 1). Power is given to inspect the books of any person, firm, or company on suspicion of such offence by justice's warrant or order of the Home Secretary or Board of Trade in such contingencies as (1) suspicion of such an offence, (2) if a partner in the firm was immediately before or any time since the war began a subject of or resident in an enemy state, or (3) in the case of a company if one-third of the issued share capital or the directorate was held by or for or consisted of such persons, or (4) in the case of an agent (person, firm, or company) for persons trading or carrying on business in an enemy State. If the Board of Trade thinks that such an offence may be committed in connection with the trade or business of any firm or company, or that the control and management of it has been or is likely to be so affected by the war as to prejudice the effective continuance of its trade or business, and that it is in the public interest that the trade or business should be carried on, or that a controller should be appointed owing to circumstances arising therefrom, the Board can apply to the High Court to appoint a controller, and the Court can do so upon such terms as it thinks fit, the powers to be those of a receiver

or manager, subject to such modifications, restrictions, or extensions as the Court may think fit, and including the power, after special application to the Court for that purpose, to create charges on the property of the firm or company in priority to existing charges, in order to enable the controller to borrow money; and the Court can give directions as to costs of proceedings under this section, and remuneration costs and charges of the controller, and charge them on the property in any order of priority in relation to existing charges it thinks fit.

This section has already been put in force: *In re Meister Lucius*[1] and *In re Kopper's Cola, etc. Co.*[2]

Present Proclamation.—The general proclamation now in force (September 9, amended on October 8 and November 15) proceeds after a repealing section as follows:

2. The expression "enemy country" in this proclamation means the territories of the German Empire, the Dual Monarchy of Austria-Hungary, and the Turkish Empire other than Egypt, Cyprus (annexed November 5), territories occupied by Great Britain or her Allies, together with all the colonies and dependencies thereof.

3. The expression "enemy" in this proclamation means any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies, enemy character attaches only to those incorporated in an enemy country.

The following prohibitions now have effect (save as far as licences may be issued as hereinafter provided):

(1) Not to pay any sum of money to or for the benefit of an enemy.

(2) Not to compromise or give security for the payment of any debt or other sum of money with or for the benefit of an enemy.

(3) Not to act on behalf of an enemy in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with any negotiable instrument.

(4) Not to accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of an enemy, provided that this prohibition shall not be deemed to be infringed by any person who has no reasonable ground for believing that the instrument is held by or on behalf of an enemy.

(5) Not to enter into any new transaction, or complete any transaction already entered into with an enemy in any stocks, shares, or other securities.

(6) Not to make or enter into any new marine, life, fire, or other policy or contract of insurance (including re-insurance) with or for the benefit of an enemy; nor to accept, or give effect to any insurance of, any risk arising under any policy or contract of insurance (including re-insurance) made or entered into with or for the benefit of an enemy before the outbreak of war; and in particular as regards treaties or contracts of re-insurance current at the outbreak of war to which an enemy is a party or in which an enemy is interested not to cede to the enemy or to accept from the enemy under any such treaty or contract any risk arising under any policy or contract of in-

[1] 31 *Times* L. R. 28. [2] *Times*, Dec. 2.

surance (including re-insurance) made or entered into after the outbreak of war or any share in any such risk.

(7) Not directly or indirectly to supply to or for the use or benefit of, or obtain from, an enemy country or an enemy, any goods, wares, or merchandise, nor directly or indirectly to supply to or for the use or benefit of, or obtain from any person any goods, wares, or merchandise, for or by way of transmission to or from an enemy country or an enemy, nor directly or indirectly to trade in or carry any goods, wares, or merchandise destined for or coming from an enemy country or an enemy.

(8) Not to permit any British ship to leave for, enter, or communicate with any port or place in an enemy country.

(9) Not to enter into any commercial, financial, or other contract or obligation with or for the benefit of an enemy.

(10) Not to enter into any transactions with an enemy if and when they are prohibited by an Order of Council made and published on the recommendation of a Secretary of State, or as regards persons resident, carrying on business, or being in our Dominions beyond the seas, by order of the Governor in Council published in the Official Gazette, even though they would otherwise be permitted by law or by this or any other proclamation.

Any person who commits, aids, or abets any of the aforesaid acts is guilty of a crime.

Provided always that where an enemy has a branch locally situated in British, allied, or neutral territory not being neutral territory in Europe, transactions by or with such branch shall not be treated as transactions by or with an enemy. But where an enemy has a branch locally situated in British, allied, or neutral territory, which carries on the business of insurance or re-insurance of whatever nature, transactions by or with such branch in respect of the business of insurance or re-insurance shall be considered as transactions by or with an enemy.

There are savings for payments by or on account of enemies to persons resident, carrying on business, or being in British dominions, if such payments arise out of transactions entered into before the outbreak of war or are otherwise permitted; and things expressly permitted by licence from the Crown, a Secretary of State (or in the British Dominions the Governor-General or Governor), or the Board of Trade, whether especially granted to individuals or announced as applying to classes of persons.

Declaration of Origin or Destination of Goods.—An Order of the Board of Trade made under the Proclamation authorises the Commissioners of Customs and Excise to require certificates of origin or declarations of ultimate destination respectively in respect of all goods, wares, or merchandise imported into or exported from the United Kingdom in trade with any foreign place in Europe or on the Mediterranean or Black Seas, with the exception of those situated in Russia, Belgium, France, Spain, and Portugal: and it gives notice that declarations of ultimate destination will be required until further notice in respect of all exports, without regard to value of consignments, to all the foreign places referred to above. For the present, however, certificates of origin will not be required in respect of imports of foodstuffs and certain named

goods, or in respect of any imports from places other than those situated in Norway, Sweden, Denmark, Holland, Switzerland, and Italy, or in respect of individual consignments not exceeding £25 in value, with exemptions for: (*a*) goods imported under licence; (*b*) goods shipped for the United Kingdom on or before November 19, and hitherto exempted; (*c*) goods in respect of which Customs export entries have been accepted before the publication of this notice.

Custodian of Enemy Property.—By an amending Trading with the Enemy Act the Board of Trade is to appoint a custodian of enemy property for each part of the United Kingdom to be held for the duration of the war and afterwards dealt with by Order in Council; dividends, interest, and shares of profits of enemies are to be paid to him and are to be dealt with as the Treasury directs, and particulars are to be furnished to him by trustees for enemy persons, and enemy property can be vested in him by order of a High Court judge; assignments of debts and the like by enemies are invalidated, and to pay such debts knowingly constitutes the offence: sums due on coupons suspected of being enemy property are made payable into Court: and on the incorporation of new companies a declaration is required that the company is not formed for taking over the undertaking of a person, firm, or company whose books are liable to inspection under the principal Act and also a licence from the Board of Trade. The offence is also extended to attempting, or directly or indirectly offering, proposing, or agreeing to trade with the enemy as in the principal Act; and to aiding or abetting a person (whether in or out of the United Kingdom) to enter into any transaction which if such other person were in the United Kingdom would be such an offence; and to dealing with money or securities for the purpose of enabling the enemy to obtain money.

Among the convictions obtained under the Act one may be noted—which has been confirmed on appeal—where an agent of a German firm proposed to English firms who held mortgages on German ships in neutral ports that the mortgages should be transferred to English shipping firms and then cancelled, and a sum of money paid to the German firms through Rotterdam.[1]

What is an Enemy?—The Proclamation, following the law as laid down in the old prize cases, does not apply the term "enemy" to persons domiciled in this country, whether individuals or corporations, who, so far as the new statute and its enunciatory proclamations go, can continue to reside or carry on business as in time of peace. But the position at common law, requiring the licence of the Crown for transactions of enemy aliens here, is unaffected. It is important to remember, as Mr. Page points out, that there are different standards in this matter. For political purposes the personal character of the alien is determined by his nationality; while for commercial purposes his enemy or friendly character is decided by his domicil.

Chitty laid it down that hostile character for commercial purposes attaches

[1] *R. v. G. N. Spencer, Times*, November 10.

only to property so that it can be taken as prize according to the laws of war between adverse belligerents. It may be by having possessions or residing in the enemy's territories or maintaining an establishment there. Such residence need not be personal, it may be by an agent. The residence only affects the particular trade, and a man acting as a merchant of two countries is liable to be regarded as a subject of both, and where a man has establishments in a hostile and a neutral country each is considered as quite distinct.

It is not strictly correct to say that even in prize cases—which only deal with property engaged in commerce—domicil takes the place of nationality as the standard. It is the character of the property that is regarded, not the political character of its owner, but the character of the property for commercial purposes, and property owned by enemy aliens resident or trading within the realm has not an enemy character. This is so, although their political character may subject them to detention, supervision, and the like at the discretion of the Executive authorities, as we have already seen, and their rights of trading may be restrained, and even put an end to, by measures against these persons. No distinction is made between them and native traders: both alike are forbidden to trade with the external enemy, the ground of this conception being, no doubt, that all persons within the realm owing obedience to the Sovereign are in his allegiance. An alien enemy domiciled here is not considered as a British subject because of his domicil; but the commercial character of his property is British. Enemy traders resident in this country require a licence express or implied, general or particular, in order to carry on their business.

National Character of a Corporation.—It is satisfactory to find, up to the present, side by side with the stringent supervision of enemy businesses, a clear recognition by the authorities of the old rule that the national character of a legal person or corporation is decided by the place of its residence and carrying on business, and the nationality of its individual members is immaterial. Upon an amendment moved to the second Trading with the Enemy Act, that the term "enemy" should include a limited company 75 per cent. of whose shares are held by enemy subjects, the Attorney-General maintained that this would be a serious thing to say, and the question could most wisely be dealt with by the powers of inspection and control; nothing should be done to undermine the principles upon which much of our commercial prosperity had grown up, and it might interfere with British manufactures; and the amendment was withdrawn. The proposal, however, received considerable support, evidently from the feeling that such enemy-controlled bodies might make use of their connection with the native country of their shareholders through the medium of agents in neutral countries, and thus defeat the object of the Act; and such commercial bodies as the Baltic Mercantile and Shipping Exchange and the London Corn Trade Association have excluded members of enemy nationality till further notice.

It has also been urged that another possible case is that of a company or its directors who disclaim any nationality though its personnel is alien enemy, but the same arguments appear to apply as in the enemy-controlled companies. In any of these cases it is open to the Executive to take such action as they think necessary for the control of the management of the business by appointing a receiver, or otherwise to ensure that no benefit is derived by the enemy country from it; but this does not alter the commercial character of the firm.

The Courts, moreover, have emphatically upheld the existing rule. A Divisional Court of the King's Bench Division has also held that a company registered in the United Kingdom according to English law is resident in this country and does not become an alien enemy incapable of suing because one of its members might be prevented from doing so by reason of his being an alien enemy.[1] A similar decision has been given in *Continental Tyre and Rubber Co.* (*Great Britain*) *Limited* v. *Tilling*,[2] where a British registered company of which all but two shares out of 25,000 were held by Germans and a German company resident in Germany was held entitled to recover the price of goods which had been supplied to an English company before the war. But the Court of Appeal at the time of writing has not given its decision on this point.

Dr. Sieveking, taking as his premiss, as deduced from the English decisions, that our prohibition of intercourse with alien enemy subjects is aimed not so much at the person of the enemy as at his property, and the underlying principle of it is to prevent additions being made to the material resources of the enemy country only in transactions affecting property; that the standard of enemy or friend character should be determined by domicil, except for the obligations of military service; that the rule of non-intercourse should not be absolute, but only be applicable as far as is necessary for prosecuting the war and bringing it to a successful issue; that the same rule should govern the treatment of enemy commerce; that no money or goods should pass from the hands of one belligerent into the pockets of the other. He urges that (1) all contracts made before or during war should be valid, except agreements made with the intention of aiding the enemy by increasing his resources in time of war; (2) all contracts of which the execution unintentionally would increase the resources of the adverse party should be suspended till after peace; (3) in the case of marine insurance contracts should only be void so far as covering loss by capture by the cruisers of the country with which the insured is identified, and should hold good and payment be made on it at the peace: the same should apply to fire insurance on like conditions, and for life insurance even in the event of death caused by the forces of the country of the insured; (4) as to ordinary contracts of sale of goods payment must wait till peace, but

[1] *Amorduct M.C.* v. *Defries*, *Times*, November 20.

[2] *Times*, November 14 and 24.

trade contracts should be good for sale of goods which are contraband of war destined for the enemy country.

It may be admitted that Dr. Sieveking's suggested basic principle offers a solution which is in accordance with the modern conceptions of international commercial relations and politics, to which it is essential that—just as in the rules laid down for the conduct of warfare the underlying principle is that non-combatants' persons and properties should be interfered with only so far as is required by the necessities of war for the one combatant to overthrow and crush the military strength of the other—only the direct actual commercial intercourse between the subjects of the belligerents should be prevented. For this it is not necessary that existing rights and liabilities between them should be suddenly abolished; temporary suspension where this will not affect the enforcement of their existing obligations is sufficient; and this has been recognised by our Courts in their decisions upon the new positions caused in previous wars, *e.g.* as in *Esposito* v. *Bowden*.[1] The statements in the Hague Conventions on the safeguarding of private property and the integrity of ordinary private rights and obligations in occupied hostile country are at least expressions of principle upon which the signatory nations are agreed. The intention of the Trading with the Enemy Act in its express provisions does not seem to go farther than this; and there appears to be no reason so far as the safety of the State is concerned for refusing to allow to enemies domiciled here the same right of trading with neutrals as British subjects.

III. Transactions between Belligerents through Neutrals.

Trade between a belligerent State and a neutral one is governed, so far as the other belligerent is concerned, by the rules as to contraband of war and blockade, which are not within the scope of the present subject.

The rule of the common law, both in England and the United States, is that there is no difference between direct intercourse between the enemy countries and an intercourse through the medium of a neutral port (see the authorities, *Griswold* v. *Waddington*, *supra*). Bills of exchange cannot be negotiated validly through the medium of a neutral between belligerent enemies: *e.g.* *Willison* v. *Patteson*,[2] where a Frenchman at Dunkirk during the war, having goods in the hands of London merchants, drew bills of exchange on a third person, which were remitted and accepted to be paid when the goods were sold. The goods were sold, and the proceeds received by the third person (defendant), and the bills were endorsed by the Frenchman and the plaintiff, an Englishman residing in France. This was held to be illegal. The only exception to this rule is made in favour of an enemy

[1] In the Chancery Division the principle that contracts between British subjects and persons becoming alien enemies are suspended and not abrogated where this is practicable, has been reaffirmed (*Zinc Corporation* v. *Skipwith*) (*Times*, December 5).

[2] 7 Taunt. 440.

indorsee of a bill drawn by a British prisoner in the enemy country, who was allowed to recover at the peace.[1] In the present war it has been held in the case of a bill of exchange that a bill drawn by a company in Russia upon a firm in England and accepted by them, and payable to the order of a banker in Germany, cannot be enforced here by the indorsees of the last-named person, who were merely agents for the alien company in Germany.

Dr. Sieveking in the paper already referred to has submitted that as to bills of exchange there need be no objection to allowing the indorsees, provided they are in the country of one belligerent, even though they have given value for it, to receive payment for it when it is drawn by a neutral on a bank in the country of the one belligerent directing it to pay a sum of money to a person in the enemy country; that the title of the transferee of the title to a sum of money is subject to any objections which affect the title of the transferee; and that, as there is no objection to a set-off between traders of two mutually hostile countries of their respective mutual accounts, as no money passes from one to the other, the same principle is applicable to bills of exchange.

Attention has been called to the possibility of trading between belligerents through the medium of a neutral house—*e.g.* goods being shipped by way of neutral ports and payment being made to a house in another neutral country, which would appear in the shipping documents (bill of lading) as consignors of the goods to the English house as receivers, and all payments and documents being transferred and made through the second neutral country. It is to guard against the evasion of the non-intercourse rule that declarations of destination and certificates of origin have been required as above mentioned, but the fact of this condition connotes a limitation of the scope of inquiry in such cases. In Dr. Sieveking's view the title to goods shipped can be passed by a belligerent to a neutral by indorsing the bill of lading, while as regards their insurance by British underwriters, if the policy is expressed to be made for the benefit of whom it may concern, the neutral can claim in his own right against them for indemnity.

Enemy Branches in Neutral Territories.—The Trading with the Enemy Act makes an exception in favour of branches of enemy businesses established in neutral countries. This has been criticised as leaving a loophole for enemies to carry on trade with British and differentiating for no useful purpose between one neutral country and another. But, as with licences, so the drawing of the line in this matter is a question of policy, and it is not difficult to understand the wish not to interfere with neutral countries more than is necessary for affecting the course of the war, especially those at a distance from the main field of the war. It has also the advantage of following, though to a limited extent, the recognised rule that for commercial purposes traders are to be identified with the countries where they reside and carry on business; and the exclusion from this exception of insurance business in British, Allied, or neutral territory has been noted. The Act therefore impliedly

[1] *Antoine* v. *Morshead*, 6 Taunt. 237.

recognises the validity of transactions by British subjects with enemies in certain cases; and the general prohibition to import certain specified articles (*e.g.* sugar) because largely produced in enemy countries points the same way. What is required is a practical working rule for differentiating between the legitimate and illegitimate transactions to which belligerent subjects and neutrals are parties, the question being whether business between belligerent A and neutral B is or is not connected with business done between neutral B and belligerent C, so that A and C are brought into contact with each other. In the case of contraband articles trade would be prohibited by reason of their nature; and Dr. Sieveking, consistently with his main principles, is willing to accept money as contraband. To prevent "the silver bullets," in Mr. Lloyd George's phrase, reaching the enemy is no less important than to stop his supplies of munitions of war. On whom is to rest the burden of proof? Is the British subject bound to disprove that his transactions with a neutral can have any connection with his dealings with an enemy, or is the burden of proof on the person alleging the unity of the two transactions?

It is submitted that the latter principle is the correct one. It is the ordinary rule in criminal matters that the *mala fides* alleged must be proved. For the practical purposes of commercial transactions the same test can be applied. The British exporter or importer to or from neutral countries who acts *bonâ fide* and does not know, or should not reasonably be expected to know, that his transactions with the neutral firm are directly connected with business between it and the enemy, is not trading with the enemy; if he acts knowingly he is. In the case of a bill of exchange there must similarly be no consciousness that the transaction involves the passing of money from the enemy to the neutral or *vice versa* in respect of it: in the case of a bill of lading there must be nothing to show that the goods—to which it is the title—come from the enemy directly or indirectly. Further than this reasonable measure of knowledge it is submitted that it is not necessary or desirable to go, either for the safety or advantage of our own country and her trade, or in the interest of international intercourse, which it is surely desirable to leave as unfettered as possible. The authorities have taken a step in the same direction by referring to an official committee the consideration of the equitable interests of British subjects and neutrals in captured or detained enemy property after adjudication by the Prize Court.

REVIEWS.

BENTHAM RE-EDITED.[1]

JEREMY BENTHAM has so often been the subject of biographies and discussions that there is no occasion to repeat the well-known facts of his career, character, and works which may be found stated at length in works of reference easily accessible. Perhaps the time may come when the masses of his writings, preserved at University College but still unpublished, may be made available. Until then we may be content with what we have, and it may be doubted whether any fresh matter would add to his influence or alter the estimation in which he is held. As the "founder and patriarch of the school" of English Utilitarians, he is best known as the promoter, not the originator, of the guiding principle of general utility in legislation, on the ground that the end and aim of a legislator should be the happiness of the people. The principle of utility he has defined as "that property in any object whereby it tends to produce benefit, advantage, pleasure, good, or happiness, or to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered." He generalised from the root-idea that pleasure must be the object of all individual action. But he was also a great master of the method of detail, and students of jurisprudence and ethics have found, and will always find, in his views, whether acceptable or not, ample matter for consideration. His critics, and among them especially Mr. J. S. Mill, have long since exposed his limitations, such as his disregard of history and experience, and his deficiency of imagination.

It must be borne in mind that Bentham did not himself write any treatise, nor was he responsible for any publication that bore the name, Theory of Legislation. His works have come to us through the French version thereof made by the Swiss, Étienne Dumont, who subsequently edited them in French. Since then translations of Dumont's works have appeared in English. We have examined, for comparison, the fourth edition of Hildreth's translation, 1882. Mr. C. M. Atkinson has now translated Dumont's text afresh, and has subjoined a number of notes which not only elucidate the text, but show also how Bentham's influence is felt in modern

[1] *Bentham's Theory of Legislation.* Being *Principes de Législation* and *Traités de Législation, Civile et Pénale.* Translated and edited from the French of Étienne Dumont, by Charles Milner Atkinson. 2 vols. (Humphrey Milford, Oxford University Press, 1914, 8s.)

legislation in England and elsewhere. A glance at the Table of Contents in each translation will show how Mr. Atkinson differs from Hildreth, not merely verbally, but in his amplification of the headings, especially in the Fourth Part, "Indirect Means of Preventing Offences," of the Principles of the Penal Code. Passages of the text of the two translations can easily be compared. They appear to differ as the translations of classical authors by, say, such scholars as Jowett, Munro, Jebb, and Ramsay are superior to the versions in Bohn's classical library; but we may admit that we have not placed them both alongside Dumont's French. In a footnote, Mr. Atkinson states: "In the later years of his life Bentham came to the conclusion that the phrase 'The greatest happiness of the greatest number' was wanting in clearness and precision. He accordingly substituted for this phrase the simpler expression 'The greatest happiness,' as representing the true object of morals and politics. The 'greatest number' he dismissed as superfluous." Again, on duelling: "In later years Bentham's views on duelling were greatly modified. . . . Bentham said: 'In former days I thought I saw some benefits from it (*i.e.* the practice of duelling) to mankind, and committed the mention of them to writing; and, if I misrecollect not, to the Press. On further consideration, I have arrived at the persuasion that they amount to little, if anything; and that, at any rate, they are in a prodigious degree outweighed by the mischievous effects.'" Again, to Bentham's Inquiry as to Divorce, Mr. Atkinson attaches a note, reproducing the main recommendations made in the Majority and Minority Reports of the recent Royal Commission on Divorce and Matrimonial Causes. Such reports are illustrative of Bentham's method and influence. He had no regard for established traditions, or for the history of institutions, no respect for authority; he abhorred 'vague generalities'; he judged all propositions by their conformity with, or disagreement from, his theories of utility and happiness, and their basis of pains and pleasures as sanctions. It has been pointed out that his taste was rather in the direction of jurisprudential than of properly ethical inquiry. As a Radical Reformer of Law he was on firmer ground, and was able to treat law as a definite science. Mr. Atkinson's fresh translation and noted edition should supersede all others; his index is a useful addition.

C. E. Buckland.

THE BRITISH EMPIRE.

In distinction from Sir Charles Lucas's description of the various parts of the British Empire, which is mainly historical, the *Oxford Survey*[1] has been planned upon a geographical basis—"not merely in the sense that an empire (or any of its component units) is a geographical expression, but on the wider consideration which dictates the study of a country first in its strictly physical

[1] *The Oxford Survey of the British Empire.* Edited by A. J. Herbertson and O. J. R. Howarth. (Oxford: Clarendon Press, 6 vols. £3 10s.)

aspects, next in those of its natural wealth, and then, and not until then, in regard to its inhabitants, whose function is to turn that wealth to use, and whose manner of life is constantly under the control of the natural conditions previously described."

The British Isles and Mediterranean possessions, the British Dominions in Asia, Africa, America, and Australasia are the subjects of five separate volumes, under the editorship of Mr. A. J. Herbertson and Mr. O. J. R. Howarth, and written with the collaboration of seventy-three contributors. The sixth volume contains a general survey, including administration, legal problems, history, defence, education, acclimatisation, mapping, commerce, communication, and migration. Mr. Howarth, in a concluding chapter, sums up the whole, and regards it as a truism to say that "trade . . . along with racial relationship, holds the Empire in union." Some readers may be disposed to doubt the statement, and might be inclined to regard it as only half a truth. A perusal of Sir Charles Lucas's lucid survey of the work of the Imperial Conferences in the first chapter shows how the proposals for promoting closer union between the various parts of the British Empire by means of an Imperial tariff of customs have gradually given place to the consideration of plans for Imperial defence. An unsigned contribution upon that subject, which has lost none of its interest through having been published before the declaration of war, is an admirable survey of the gradual development of Imperial organisation for defence purposes, and of the military and naval forces.

Although the natural instinct of self-preservation has been shown to be a powerful factor in welding together the constituent parts of the British Empire, contributions may be made in other departments of life, and among them a place may be claimed for law. A chapter by Mr. Page, entitled "The Legal Problems of the Empire," is almost confined to a discussion of the position of the Privy Council as the final court of appeal for the whole. Although there is a blemish of an absence of care in reading the proofs,[1] his contribution contains a useful summary of the history of the Judicial Committee of the Privy Council and a description of its present relations to the highest Courts of the Dominions. A statement (p. 113) in respect to appeals from the Supreme Court of Canada requires reconsideration, since s. 59 of the Supreme Court Act (Rev. St. Can. 1906, c. 139) is only a reprint of s. 47 of the Supreme and Exchequer Courts Act, 1875, thus conflicting with Mr. Page's assertion that the latter does not contain any curtailment of the prerogative right to entertain appeals. Among other legal problems to which some attention might have been given is the desirability of greater uniformity of legislation. A good beginning has been made towards the enactment of one Copyright Act for the whole Empire, there is much similarity in the Companies Acts, and something has been attempted towards reducing the differences between

[1] Lord Westbury's name is incorrectly spelt on p. 93; 1833 should be 1633 on p. 96; a volume of the Law Reports cited on p. 106 requires a number.

the various Workmen's Compensation Acts. But these are only examples of a movement which circumstances will require to become more general, and which would have been helped forward in a work of this kind by a clear statement of its practical importance. Recent events have demonstrated that a uniform Army Act for the whole Empire is an obvious necessity. It would be ungracious, however, to conclude with a suggestion of omissions from the Survey when so much has been done to present a comprehensive work, not merely of reference, but most readable, of information about every part of the British Empire at a time when all parts are being drawn more closely together than at any previous period in its history.

AIRCRAFT IN WAR.

Dr. Spaight, who has already shown his interest in the study of the laws of war on land, has written a book[1] which constitutes a valuable study of the new science of aviation in its application to the problems of war. Its international aspect has been considered by the jurists, *e.g.* the specially formed International Juridical Committee of Aviation, the Institute of International Law and the International Law Association. Such preliminary studies of the subject from the international point of view are very necessary, because—as this book makes clear—there is no code of International Law dealing with it. Aviation had not become practical when the second series of Hague Conventions (1907) were passed. Their only references to it are the declarations prohibiting the discharge of projectiles and explosives from balloons or "by other new methods of a similar nature"—a provision only in force in a war to which the signatory Powers are the only parties (*e.g.* in the present war France, Germany, Russia, and Serbia are not parties to it, while Austria, Belgium, and Great Britain are); the exemption from the offence and penalty of espionage of individuals in balloons sent to deliver dispatches and generally maintain communications between parts of an army or territory; and the right of an army of occupation to take possession of all means employed on land, at sea, or in the air for sending messages, carriage of persons and things apart from cases governed by maritime law, depôts of arms, and generally all kinds of war material even though belonging to private persons, on condition of their restoration at peace and payment of compensation for their use.

Aerial warfare is a new branch of hostile activity; and, until special international rules are framed, it must be governed by analogies from land and sea warfare. The author of this work rightly emphasises the point that it is impossible—as was suggested by certain learned jurists when the question of the application of the new science and practice in warfare arose—to refuse to it legal validity as a justifiable form of hostilities. Whether as scouts and

[1] *Aircraft in War*, by J. M. Spaight, LL.D. (Macmillan, Ltd., 6s.)

guides for land or sea forces or as actual instruments of war by dropping of bombs, air vessels, craft, or vehicles and their crews have made good their claim to be regarded as a necessary integral part of the modern army or fleet.

Another point is no less necessary to determine in considering the proper use of air craft, whether for the purposes of war or of peace, viz. what is to be the status of the air space overlying the land and sea territories of States? Is it to be, like the high seas, open to all, or are the subjacent territorial limits to apply to it too? This has been already decided in favour of the latter principle by legislation in England, and international agreement between France and Germany, and it seems to be absolutely demanded by the necessities of State policy. The idea of a territorial zone for the air, or the air as a *res communis* for which only the whole body of territorial States can validly legislate jointly, is regarded by the author as impossible in the nature of things. For practical purposes there is no comparison between the air space and the open sea. Though the limit of three miles for territorial waters is quite inadequate to protect a neutral country from the effect of hostilities between belligerents using modern guns, it does constitute a physical barrier which the atmosphere cannot afford to the subjacent land: and the operations on it do not inevitably and directly affect those territories. Land boundaries can at all events serve to demarcate spheres of action and neutrality between belligerent nations.

Which of the existing codes of warfare for land or for sea is to furnish rules or analogies for war in the air is as yet uncertain. One opinion is that air vessels in case of war are to be treated as merely part of the land or sea forces with which they are working and subject to the same rules. Another is that air operations in their present developments and limitations—to say nothing of the future—are so essentially different as to require special rules. The author (rightly, it is submitted) proposes a single code for land and sea war with special rules for air operations. For the present at least it seems safe to assume that belligerents will apply the most stringent rules of both systems to the new field of warfare. Seeing the difficulty of distinguishing between the spheres of action of the airship or aeroplane or seaplane, it seems doubtful whether any particular air vessel can be assigned exclusively to land or sea warfare. It can hardly be conceived that it will be legitimate for an air vessel (except perhaps a seaplane attached to a ship) to enter neutral territory in order to recruit her supplies like a ship of war. Nor is it likely at present, when air vessels have so little commercial value and application and such infinite capacities for use as instruments of warfare, that their seizure and appropriation by an enemy force in occupied territory is inevitable, whether it be followed by confiscation, as in the case of property captured at sea, or only by detention and restoration at the conclusion of peace as is urged by Dr. Spaight and other authorities on the subject.

This book contains various drafts of codes for aerial warfare suggested by

the author and other authoritative writers on the subject and deals in detail with the probable relations of aircraft and airmen to the existing international rules of warfare. It is of special interest at the present moment, and the common sense and lucidity with which the practical considerations involved are set out render it a valuable contribution to the body of law which has to be constructed for this newest phase of belligerency.

G. G. P.

THE RT. HON. SIR CHARLES TUPPER, BART.

ELSEWHERE in the present issue is given a short memoir of Sir Charles Tupper, whose portrait forms the frontispiece. Happily the time has not yet come for a full biography, but some useful material has been collected in a volume of *Political Reminiscences*.[1] Sir Charles gave a series of interviews, in which he made use of a diary and some notes, to Mr. Harkin, who was connected with a Vancouver daily paper, and is since dead. Two of his friends have seen the volume through the press and retained the interviews in their original form, so that the book has the merits and defects of daily journalism. It presents the venerable statesman as a man of energy and prescience, and shows how largely he has contributed to Canada's advancement as a nation, while strengthening the bonds of union with the mother country. When Dr. Tupper first entered political life the people of Canada required to be convinced of the value of federation, of which he was a warm advocate. After the provinces had been united into the Dominion, the consolidating influence of railway communication was not recognised by some, and as a Minister in the Dominion Government Dr. Tupper had to use his persuasive power to obtain approval of a substantial Government loan to the Canadian Pacific Railway. In international affairs, too, he showed a discriminating foresight. Dr. Tupper advocated that Canada should be allowed direct representation when her interests were under consideration, and although he met with a rebuff at first it is now twenty years ago since he acted as plenipotentiary in negotiating a commercial treaty with France.

PRIVATE INTERNATIONAL LAW IN FRANCE.[2]

THIS is a short statement of the points decided in over a hundred cases in the French tribunals in which British or North American subjects were concerned. They are drawn not only from the collection of Clunet, but from that of Horn, the *Recueil des Sommaires*, and the *Gazette du Palais*. English

[1] *Political Reminiscences of the Right Hon. Charles Tupper, Bart.*, . . . transcribed and edited by the late W. A. Harkin. (London: Constable.)

[2] *A Digest of Cases decided in France relating to Private International Law.* By Pierre Pellerin, of the University of Paris and Lincoln's Inn. (London: Stevens & Sons, Ltd.)

lawyers who do not read French, or for some other reason are unable to consult the originals, will find it a useful compilation, and in some cases the author has supplied an illuminating comment. "*Journ.* dr. int. priv. (Horn)" (p. 73) seems to be a mistake for "*Revue.*" "Lien" is perhaps a better translation of "hypothèque légale" than "mortgage" is. The cases are classified alphabetically under the various titles, ranging from Arbitration to Wills; and there is a glossary of French legal terms. It is gratifying to observe that M. Pellerin properly appreciates the distinction between England and the United Kingdom.

The extraordinary way in which the doctrine of "*ordre public*" is made available in order to evade the consequences of the principle of the *statut personnel*, while doing it lip-service, is exemplified in a decision of the Parisian Court of Appeal (April 19, 1913). The father's right over his children is *d'ordre public*, and therefore if the child is in fact in France, "it is unnecessary to consider" what, by the personal law of the parents and child, is the binding force of any agreement between the parents as to its custody (*Gaz. du Palais*, June 12, 1913). Again, the right to aliment from children in case of poverty (as distinguished from absolute necessity) is *d'ordre public*, and can be enforced against English people in France, at any rate if resident there (*Seine Civil Court*, June 4, 1901; *Cassation*, July 22, 1903; Clunet, 1902, 334; *ib.* 1904, 355). It is rather difficult to understand why the former of these two decisions should be included under *Status* and the latter under *Competence*. But the effect of all the decisions just mentioned is virtually to substitute for the nationality of the parties as the test of the personal statute something which it is not very easy to distinguish from domicile. The joint operation of the lever of nationality and the crank of *ordre public* is only a clumsy mechanical equivalent for the direct-action piston of domicile as applied in England.

T. Baty.

THE DEPARTMENT OF STATE OF THE UNITED STATES.[1]

Evolved out of an administrative bureau which originally handled not only foreign affairs but all matters arising out of the relations between the several States with each other and with the Federal Government, the Department of State of the United States still retains many functions of a constitutional nature which bear no relation whatever to the cultivation of foreign relations. For instance, it takes a responsible part in steering constitutional amendments through the channels of ratification by the State legislatures; again, it contains most of the machinery for the approval, recording, and publication of Acts passed by Congress—a part of its routine which is full of laborious details. Dr. Hunt presents here a painstaking and exhaustive

[1] *The Department of State of the United States: Its History and Function.* By Gaillard Hunt, Litt.D., LL.D., lately Chief of the Bureau of Citizenship, Department of State. (London: Oxford University Press, 1914, 10s. net.)

catalogue of the varied duties thrown upon the Department throughout its history, together with much useful information of the internal processes by which its present functions are exercised—for example, in the granting of extradition and in the negotiating of treaties. The work has a value, therefore, above that of a handbook of the Department's business arrangements, for the historical abstract of the growth, not only of the Department as a whole, but of each of its component bureaux, will be most useful as a collateral aid to historians and statesmen who have reason to consult fragments of the administrative or diplomatic past of the United States. There are included what may be termed the biographies of some of the inanimate objects in the Department's custody, notably the Great Seal of the United States, the letters of many of the early Ambassadors and Secretaries of State, and the actual originals of the Declaration of Independence and of the Constitution.

S. R.

THE IBO-SPEAKING PEOPLES OF NIGERIA.[1]

In Part IV. of the *Report on the Ibo-speaking Peoples of Nigeria* we find detailed descriptions of the laws and customs of the people. Part V. is a volume of addenda to Mr. Thomas's Ibo-English Dictionary. Part VI. contains a collection of proverbs and stories (with translations) and a discussion of the tones of the Ibo language.

The chief subjects dealt with in Part IV. are History, Language, Religion and Magic, Social and Political Organisation, Marriage, Criminal Law, Slavery, Civil Law, Technology.

Parts V. and VI. and the *Specimens* will be found of special utility by those who have to travel in Nigeria, certain important and, I believe, hitherto unrecorded features of the language being explained. One point that appears very clearly—a glance even at Part IV. is sufficient to show it—is the utter inadequacy of the ordinary Roman alphabet for representing the languages of Nigeria. Mr. Thomas has of course found it necessary to employ a phonetic transcription. It is to be regretted that he should have invented a special system of his own, when the already existing alphabet of the International Phonetic Association would have answered the purpose equally well. The value of these volumes (particularly the *Specimens*) would have been greatly enhanced by the addition of detailed descriptions of the sounds; the explanations given of the values of the phonetic letters are very meagre.

The chapter on tones is most valuable. It has for some time been known that in languages of Nigeria words are often distinguished by the

[1] *Anthropological Report on the Ibo-speaking Peoples of Nigeria*, Parts IV., V., and VI. By Northcote W. Thomas, M.A., F.R.A.I. (London: Harrison & Sons, 1914.)—*Specimens of Languages from Southern Nigeria.* By Northcote W. Thomas, M.A., F.R.A.I. (London: Harrison & Sons, 1914.)

tone of voice with which they are pronounced, but nothing has been done previously in the way of determining the precise nature of the tones. Mr. Thomas, however, now presents us with an accurate analysis of a large number of tones, and though the results are still incomplete, his work must nevertheless be regarded as of the greatest interest and utility.

D. JONES.

CODIFICATION IN BRITISH INDIA.[1]

THIS volume represents a new departure from the usual series of the Tagore Law Lectures, annually delivered in Calcutta. They have hitherto, for more than forty years, always dealt with particular branches of the law—with the substance of laws—whereas codification is a particular method of legislation, and relates to the form of laws. But it would be hypercritical to object, for such a reason, to the selection of this subject, so closely connected as it is with the knowledge of law and its development in British India. Granted the desirability of dealing with the subject in the Lectures, once in a way, it was essential that it should be handled thoroughly and skilfully. It would be difficult to suggest how it could have been better or more exhaustively treated than it has been by the learned Professor, Bijay Kisor Acharyya: if he has omitted anything it may be understood that it was not worth including. The Lectures have presumably been elaborated and perfected for publication in the two years that have elapsed since their delivery. It is only possible, within the limits of space, to offer a few observations on them.

Codes in some shape have appeared since the days of the Mosaic Decalogue, and of Greece and Rome. Codes and codifications have been written about until nothing new remains to be said. The lecturer has collected various definitions of the words, and has quoted Bentham as to the object of a Code, namely, that every one may consult the law of which he stands in need in the least possible time. Codification was probably Bentham's ruling interest: his desire was "to introduce order into the bewildering chaos of the English legal system." Systematic arrangement, proceeding from definitions, is the model of a Code: thus the Code Napoleon fails, as being without a single definition. The ideal of a Code for any country is, of course, that it should contain, in a complete form, all the law in force or that may be required; but in practice such an ideal is unattainable. Where codification is synonymous with consolidation, it is difficult enough for the draftsman to avoid innovation: where codification aims at anticipating legal requirements, other considerations arise, which have arrested the progress of codification in India. There may be very serious objections to the introduction into India of whole chapters of law, which have grown up in the West but are alien to the East. Thus a kind of compromise has been effected. The scientific codifiers have

[1] *Tagore Law Lectures*, 1912: *Codification in British India*. By Bijay Kisor Acharyya, B.A. (Cal.), LL.B. (Edin.). (Calcutta: S. K. Banerji & Sons, 1914.)

been allowed to show their skill and capacity in framing Bills to codify certain branches of law, but the Acts do not always come into force unless extended to specified areas.

The lecturer's Introductory Chapter on Codification—its meaning, its practicability, the objections to it—on ancient and modern Codes, on the genesis of the Anglo-Indian Codes, etc., is full of learning, and forms an excellent preparatory study to the twelve lectures which inquire more deeply into the subject of Codification in British India—its history and necessity; the influence of the condition of the people; the answers to the objections; the genesis, principles, and form of the Anglo-Indian Codes; the progress of codification in substantive law (public and private), and adjective law; its contact with Hindu and Mahomedan law; the personal laws of those religions; the feasibility of further codification, and the codification of customary law, in British India. In several directions the lecturer has gone into considerable details. He has shown, for instance, that the Indian Penal Code—enacted in 1860 after lengthy deliberation, regarded as "triumphantly successful," and republished constantly with all the amendments in it embodied—is not a complete compendium of all the penal laws of India, as many other Acts contain penal clauses. Again, he has pointed out that, for instance, the Bengal Tenancy Act was not a complete Code, even in respect of the law of landlord and tenant, and has been thrice amended. In short, to attempt to codify the law of British India is an endless task; but there is every reason why it should be continued, so far as possible. Even if codification is not pursued, the main Acts should be constantly republished, with every subsequent amendment incorporated in each case, so that the law on each subject may be self-contained; and this appears to be done with reasonable frequency. The essential thing is that the law should be accessible. Codification operates in making it so. The lecturer's book holds the field as the best work on the whole subject of codification, and should be consulted by every member of the Legislative Councils in India.

C. E. Buckland.

NOTES.

Sir William Anson.—By the death of Sir William Reynell Anson on June 4, the Council of this Society has lost one of the earliest and most distinguished of its members. Sir William Anson was the author of two great law books, the *Principles of the English Law of Contracts* and the *Law and Custom of the Constitution.* Both of them have become classics, one in the domain of private law, the other in the domain of constitutional law. Both of them were based on lectures delivered at Oxford. After practising for some five years at the Bar, Anson returned to Oxford and there found his vocation as a teacher of law. In 1874 he was elected Vinerian Reader in English Law, and found himself the only university lecturer in English law at Oxford. He played an active part in the formation of the existing School of Law at that university, and always remained its most influential guiding spirit. From 1881 till his death he was the Warden of All Souls College, the institution which is specially devoted to the study of law at Oxford. His latest task was to instruct the heir to the throne in the principles of the English Constitution.

His activities and interests were many and various, and extended far beyond his university. For instance, he represented the University of Oxford in Parliament from 1899 until his death, and for three years, from 1902 to 1905, was Parliamentary Secretary to the Board of Education. His experiences as a member of Parliament and Minister of the Crown, and his intimate relations with the leading statesmen of the day, gave him an insight into the practical working of our constitution which is denied to the ordinary writer, and the fruits of which are apparent in his books.

Of his private character this is not the place to speak. Few men were more lovable or more deeply loved. C. P. I.

Imperial Conference.—The Dominions Report published in August (Cd. 7507, Wyman & Sons, Ld.) records some further steps taken to carry out the resolutions of the Imperial Conference of 1911 in addition to those which have received attention elsewhere in this Journal.

In accordance with the 4th Resolution in favour of uniformity of laws, New Zealand passed an Act based on the Imperial Copyright Act of 1911. This Act came into force on April 1, 1914, from which date the Berlin Copyright Convention of 1908 has been applied to New Zealand. Steps have also been taken to make the same Convention applicable to Australia and Newfoundland, in which Dominions legislation was passed in 1912.

The 11th Resolution, in favour of Uniformity in the Law of Accidents and Compensation, was carried further into effect by legislation in Nova Scotia,[1] and in Manitoba.[2] A Bill was also introduced into the Parliament of Victoria, and after considerable alteration it became law.

In accordance with the 19th Resolution, His Majesty's Government made further agreements with the Governments of Sweden, Norway, Costa Rica, and Switzerland, authorising His Majesty's Government to terminate on twelve months' notice the application of the existing commercial treaties with those Powers, in respect of all or any of the self-governing Dominions without impairing the effect of those treaties with respect to the rest of the Empire. Negotiations with other Powers with the same purpose in view are still in progress.

The Family Council.—Social workers generally in England were in agreement that one of the most difficult problems even before the war added appallingly to its magnitude, among the many with which they had to deal, is to find the right method of assisting the fatherless and widows. It is possible that the comparative method of study may be of some value in the difficulty. Although in the social problems of the present day we may seem to be separated by a long way from the age of Justinian, it is nevertheless of importance to note that the family and the desire to maintain it were firmly embodied in the Roman law, while "among the Teutons the Family had not been, within historic times at least, a group closely bound together as it was among the Italians,"[3] with the result that the English legal system is in marked contrast to the Roman in not paying the same attention to the position of the family. Mr. Justice Scrutton in a prize essay,[4] written some years ago, has shown how the English system of inheritance has been directly detrimental to the maintenance of family life. The laws relating to property provide perhaps the most conspicuous example of the effect of the English system, but the distinctions between the continental systems of law, based upon the Roman law, and the English are marked throughout their treatment of the family.

When the master of the Roman household died, his sons at once came forward as its masters and obtained on their own account over the women and children and property the rights hitherto exercised over them by the father. The descendants, who were rendered by that occurrence independent, regarded themselves as still in many respects a unity; a position which was made use of in arranging the succession of heirs and in many other relations, but especially in regulating the position of the widow and unmarried daughters. As according to the older Roman view a woman was not capable of having power either over others or over herself, the power over her, or, as it was in this case more mildly expressed, the guardianship,

[1] Ch. 47 of 1913. [2] Ch. 91 of 1913.
[3] Bryce, *Studies in History and Jurisprudence*, ii. 367-8.
[4] *Land in Fetters*, pp. 152-3.

remained with the house to which she belonged, and was exercised in the room of the deceased house master by the whole of the nearest male members of the family.[1] From this germ was developed in the course of centuries the institution known as the family council,[2] whose constitution and authority were embodied in the French Civil Code and thence have been adopted with almost identical features in nearly all the continental systems of Europe. The desire to preserve the same home for the children and to avoid the loosening of family ties is also a characteristic of the provisions of the continental codes of law relating to guardianship.

The primary reason for the existence of the family council in respect to widows and children is to supply in whatever degree may be possible that which has been lost by the withdrawal of the *patria potestas*. Thus the chief functions of the family council include the exercise of the parental right of correction and the selection of a career for the ward. Even if there be a guardian dealing with the property of the minor he cannot administer punishment without the authority of the family council. But the *patria potestas* has never been embodied in the English system of law,[3] and the question arises whether that fact does not lie at the root of the difficulties associated with the widow and the orphan. English law takes little or no interest in them unless they are possessors of property,[4] though the old custom of London by which all orphans of freemen became wards of the Orphans' Court of the Corporation seems to have had regard to their welfare, especially their training for a trade, as well as the custody of their goods.[5] The operation of the Court, though still authorised by law, is fallen into desuetude.[6]

In order to appreciate more fully the position of the family council in the foreign systems of law it may be well to state its constitution. The family council[7] consists of, with the justice of the peace, six relatives, half paternal and half maternal, residing in the parish, or within the distance of twelve miles from the domicile of the minor; and when there is not a sufficient number of relations, the justice of the peace then appoints persons who had been intimate with the father or mother of the infant.[8] The defect in the constitution of the family council from the point of view of modern ideas and practice is that women, except the mother and grandmother, are excluded

[1] See Mommsen, *History of Rome*, translated by Rev. W. P. Dickson (London, 1868), vol. i. pp. 92 *et seq.*

[2] Larousse, *Grand Dictionnaire Universel*, tit. *Conseil de famille.* Dalloz, *Jurisprudence générale*, tit. *Minorité.* Maleville, *Analyse raisonnée de la discussion du Code Civil*, liv. i. tit. ix.

[3] Burge, *Commentaries on Colonial and Foreign Laws*, ii. 487, 524.

[4] See *In re McGrath*, [1893] 1 Ch. 143.

[5] Bohun, *Privilegia Londini*, pp. 313-36.

[6] Eversley, *Domestic Relations*, p. 615.

[7] Aird, *Civil Laws of France*, p. 53.

[8] French Civil Code, Art. 409. The provision that non-relations may be members of the family council exists also, for example, in Quebec, Spain, and St. Lucia. See Burge, *Colonial and Foreign Laws* iv. 50, 52.

from it in accordance with the rule of the Roman law.[1] It may be noted that an institution similar to the family council exercises corresponding functions in Jersey[2] and Guernsey.[3] In Jersey the widow is not legally guardian of her children, but they are entrusted to her care unless her conduct justifies their committal to other custody.[4]

Woman Suffrage in Australasia.—In a paper by Madame Maria Vérone, who is an "avocate," published in the *Bulletin de la Société de Législation Comparée* it is claimed that the results of woman suffrage in Australia have been on the whole very satisfactory. Conjugal life has not been injuriously affected thereby, and beneficial legislative measures are attributable to the feminine influence. Thus, the laws of divorce in New Zealand and in Western Australia have been equitably reformed so that the same conditions are applicable to both husband and wife; rights of succession between husband and wife have been equalised throughout Tasmania, Western Australia, and Queensland; in Victoria and Tasmania official posts and the professions have been opened to women; the working hours of women have been limited by law. Important legislative measures have been passed concerning children's education and protection: thus, compulsory education has been imposed in the case of children between the ages of seven and fourteen; industrial schools have been established for their moral reformation and illegitimate children have had their position bettered. Old age pensions, the prevention of alcoholism, the prohibition of brothels, the safeguarding of girls, etc., are among the other measures which seem to have been the outcome of the influence of women.

The opinion prevailing among men about woman suffrage is thus summed up by Sir John Ward: "We have not become aware that the mere fact of a woman voting once every three years has been in any way detrimental to the charms of womanhood or the domestic duties of women. On the contrary, woman suffrage has had a distinctly moralising effect upon the general conduct of elections. To the unfortunate memories of former elections—the excessive drinking, the hand-to-hand fights—has succeeded a decorum worthy of a nation acting in the exercise of its highest national privilege" (October 1907). The action of the Australian Senate in 1910 in recommending to the English Prime Minister the grant of suffrage to women Madame Vérone considered to be instructive.

Slave Trade.—In 1873 jurisdiction was given[5] to the Vice-Admiralty Court at Aden and the consuls within the dominions of Zanzibar, Muscat, and Madagascar for the more effectual suppression of the slave trade on the East Coast of Africa. By an Order-in-Council[6] which came into force on

[1] Codex V. 35, 2, 3. Novell XCIV. cap. 1.
[2] See *Jersey Civil, Municipal, and Ecclesiastical Laws Commission*, 1860-61, p. 29.
[3] Carey, *Institutions, lois et coutumes de l'île de Guernesey*, pp. 171 *et seq.*
[4] *Recueil des Lois*, ii. 166.
[5] 36 & 37 Vict. c. 59.
[6] *London Gazette*, June 23, 1914, p. 4886.

August 1, 1914, the Act has been extended so as to comprise the Court established by the Persian Coast and Islands Order-in-Council, 1907.[1] Thus the Consul-General for Fars and the coasts and islands of the Persian Gulf will be able to enforce the suppression of the slave trade in that neighbourhood which was agreed to be desirable in a treaty made with the Persian Government so long ago as 1882.

Norfolk Island.—"This small island in the Pacific," writes Mr. J. S. Henderson, "which in 1843 was severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen's Land, in 1856 was made a distinct and separate settlement, in 1897 was directed to be administered by the Governor and Commander-in-Chief of the Colony of New South Wales, and in 1900 reverted to the control of the Governor of the State of New South Wales, has now by a Statute of the Commonwealth of Australia (No. 15 of 1913) and by an Order-in-Council dated March 30, 1914, been placed under the authority of the Commonwealth of Australia. By the Commonwealth statute and, subject thereto, the laws, rules, and regulations in force in Norfolk Island at the commencement of the Act are to continue in force, but may be altered or repealed by Ordinance made in pursuance of the Act. Apparently in view of the acceptance of the Island as a Territory under the authority of the Commonwealth, its laws have been consolidated and published. Of these laws mention may be made of the Administration Law, 1913, which makes provision for the executive government of the Island during the absence of the Governor. The same Act also requires the chief magistrate to cause a register to be kept of the names of the male natural born or naturalised subjects of His Majesty of the age of twenty-five and upwards who have for the previous six months been domiciled on the island, and from those persons, who are called 'the elders,' juries are drawn. The Act also deals with proceedings in civil and criminal cases. Other Acts deal with titles to lands, fencing of lands, trespass by pigs, the extirpation of noxious weeds, vagrancy; there are, in addition, other Acts which largely reproduce the provisions of various Imperial statutes."

Legislation in Wei-hai-wei.—"Before any legislation or administrative measures likely to affect Chinese customs and village life are put in force," writes the Commissioner of Wei-hai-wei in his annual report, "care is always taken to ascertain as far as possible the opinion of the Chinese through the district and village headmen. This is done in pursuance of the policy of the Government, which has invariably endeavoured not only to maintain, but also to strengthen and consolidate, the village organisation. That organisation is based on the principles of filial piety, which have proved themselves best suited to Chinese social polity. The authority of the father, the village elders, and the headmen is the corner-stone of Chinese society, and it is the constant endeavour of the head of this Government and of the 'father and

[1] *Statutory Rules and Orders*, 1907, p. 243.

mother officials,' as the magistrates are styled, to support this authority, to the maintenance of which is chiefly due the peaceful and orderly behaviour of the 150,000 inhabitants of this Territory. The disintegration of such authority would render it impossible to carry on the work of administration with the small staff which is under present circumstances found to be sufficient."

Foreign Judgments.—M. Reinach, counsel to the French Consulate at Frankfort, contributes to the *Bulletin mensuel de la Société de Législation Comparée* a study of the law relating to foreign judgments which may be summarised briefly as follows: Judgments in pursuance of Art. 36 of the Berne International Convention of October 14, 1890, or falling within Arts. 18 and 19 of the Hague Convention of July 27, 1905, or given under the Navigation Acts of the Elbe (April 13, 1844), Danube (1865–78–81), Rhine (October 17, 1866), will receive execution in any of the countries party to the treaties. The procedure, except in the case of those pursuant to the Berne Convention, is extremely simple—an *exequatur* issues upon request made. Various States have conventions *inter se* facilitating and simplifying the procedure relative to the execution of their respective judgments, but to a large extent inadequate recognition still exists extra-territorially in regard to a State's judgments. Thus, Russia, France, Holland, Belgium, Luxembourg, and those Swiss Cantons where French law obtains will not issue their *exequatur* upon a foreign judgment unless bound by treaty to do so. If no treaty binds them, the foreign judgments will be subject to revision in the domestic tribunal as to both its grounds and its form. In many countries, however, revision is not so strictly insisted upon if one of the parties is not a subject of the country in which demand for an *exequatur* is made, but, on the other hand, much greater strictness is shown where that party *is* a subject of that country.

Other States—probably the greater number of States—apply the system of reciprocity, subject, nevertheless, to any special convention existing between State and State. The principle of reciprocity offers this advantage, that the tribunal with jurisdiction over the claim for an *exequatur* inquires more into the form than into the facts of the judgment. Certain conditions clearly laid down must be fulfilled: the foreign tribunal must have had jurisdiction over the subject-matter in dispute according to the principles of international law and the case must have been brought before it in a regular manner; both parties must have had an opportunity of being heard and the judgment must not be *contra bonos mores*. If the judgment complies with these conditions, an *exequatur* will issue as a matter of right.

The principle of reciprocity is, however, subject to very great drawbacks. One of the first difficulties which it gives rise to is that of deciding whether or not the principle is, in fact, in force between two States. Further, ought the conditions upon which an *exequatur* is granted to be identical in the State where the judgment was obtained and in that in which the

judgment is sought to be enforced? Again, certain countries, *e.g.* Germany, prescribe a very complex procedure, while others, *e.g.* Austria-Hungary, will act upon a mere request. These drawbacks, among others to which the principle is subject, show the unsatisfactory nature of the principle. They were clearly illustrated at the time of the San Francisco earthquake: the State of California, by declaring all German judgments executory, thus compelled Germany, on her side, to grant her *exequatur* to Californian judgments given against German insurance companies. The principle of reciprocity, at the present time, obtains in Germany, Austria-Hungary, Spain, Mexico, Montenegro; in the greater number of the German-speaking Cantons of Switzerland; in Croatia, Egypt (so far as international Courts are concerned), Sweden; and in a number of the Northern States of the United States of America.

"The Principle of Autonomy," which was propounded by Professor Sperl, of Vienna, is far more advantageous. Each State lays down the conditions which the foreign judgments must comply with in order to be enforced, and no consideration is paid to the conduct pursued by other States in respect of the judgments of the former State. Italy was the first to adopt this system; Denmark, Brazil, Portugal, and lastly England and the British Dominions, have followed suit.

In certain countries peculiar systems obtain. Thus, the Prince of Monaco decides whether or not the claim for an *exequatur* is to be granted. Brazil, and some of the Swiss Cantons, leave it entirely to the discretion of their Courts whether to grant or to refuse the claim.

Emergency Legislation in Germany.—Germany, like ourselves, has had to re-adjust its legal machinery to meet the exigencies of the war, and a very instructive account of this re-adjustment is given in a series of articles contributed to the *Solicitors' Journal* in October, November, and December by C. H. Huberich, of Berlin and Hamburg, Counsellor at Law of the Bar of the Supreme Court of the United States, and Richard King, Solicitor of London: Fas est et ab hoste doceri.

The dominant note is the declaration of martial law throughout the German Empire. The Ordinary Courts are not superseded, but in the interest of public security a supreme control is reserved to the military authorities over all the executive organs of government. Subject to this, German law does not place alien enemies as such, so far as regards their civil relations, under any special disabilities. They are still accorded a *locus standi in judicio*, both as plaintiffs and defendants, in the Courts, and this without regard to their domicile or place of residence; non-residence in Germany only involves this difference, that the alien enemy may be required to give special security for costs. It is important, however, for a defendant resident in England to note that under German law no appearance can be entered without a written power of attorney. Ignorance of this rule has led to many English defendants, cited by substituted service and failing to appear,

having had judgment by default entered against them and execution levied. A judgment by default may, however, be re-opened within a limited time. On the important subject of contracts the situation from the German point of view may be summed up thus: Contracts with alien enemies, whether resident or non-resident, are valid, but under the Ordinance of September 30, 1914, it is forbidden, subject to certain exceptions, to make any payments or to transmit any securities to persons domiciled or resident within Great Britain or the British Colonies or Possessions; but the debtor may deposit the amount involved or the securities to the credit of the person entitled at the Reichsbank—the equivalent of our Public Trustee.

It would be impossible within the compass of a note to follow out the legislation on every point—Moratorium, Trade Mark, Patent, Prize, Supervision of Enemy Business Undertakings. Suffice it to say that the emergency provisions, taken as a whole, are creditable to Germany and its jurisprudence. They exhibit no spirit of vindictiveness. If there is retaliation, it is only resorted to where the rights conceded by Germany are refused by us. The disabilities and prohibitions, in a word, are no more than the reasonable safeguards which a belligerent may exact in the presence of that hideous anomaly—War.

Swiss Factory Law.—The *Bulletin of the International Labour Office* (vol. ix. No. 6) contains a translation of the text of the Swiss Federal Act, dated June 18, 1914, relating to work in factories. The law is somewhat indefinite in its terms. It applies to any industrial undertaking in the nature of a factory, which is further defined to be "where several workers are employed away from their houses, either on the premises of the undertaking and in workshops annexed thereto, or elsewhere on work connected with the industrial working of the undertaking." The owner of the factory is to provide "all those safety appliances" for the prevention of sickness or occurrence of accidents "which experience has shown to be necessary, and the use of which is made possible by the advance of technical science and individual circumstances." He is required to draw up regulations with regard to the arrangement of work, the maintenance of discipline, and the payment of wages. They may include rules "either limiting or entirely prohibiting the traffic in alcoholic beverages and their consumption on the premises of the factory during working hours." Fines for infringement of regulations may be imposed, but if the amount is more than 25 centimes, the levy must be countersigned by the factory owner or his responsible representative and must not exceed one quarter of a day's wage. Fines are to be used for the benefit of the workers and especially for provident funds. The regulations are to be sanctioned by the Cantonal Government, but before that is done the workers have an opportunity to express objections, which are to receive adequate consideration. The relationship between the employer and worker is based upon the law of obligations. If the employer terminates the contract in contravention of the law he may be liable for an indemnity equal

to six days' wages, and if the fault is with the worker the employer may proceed for the recovery of three days' wages. In disputes between employer and worker the parties are not to be heard by counsel except in special circumstances, and the judge is not to be bound by evidence produced by either side, but apparently may make inquiries on his own account to ascertain the pertinent facts. The law also provides for the appointment of Cantonal Conciliation Boards and a Federal Works Board to inquire into and give its decisions in regard to complaints lodged by workers employed in Federal works and relating to general working conditions.

Women in pregnancy, by simple notice thereof, shall be entitled to leave work instantly or not to come to work; they shall not be dismissed on this account. Children under the age of fourteen, or above that age and still subject to compulsory school attendance, are not to be employed in factories. Young persons in their seventeenth or eighteenth year who are not apprenticed are to be allowed at least five free hours per week in order to attend trade classes held during the hours of factory work.

The law, which supersedes previous Federal and Cantonal legislation on the subject, extends to nearly one hundred sections, so that it has not been possible to do more than note some of the interesting points.

The Minimum Wage in the United States.—There is a general impression that social legislation of all type readily finds favour in the United States, but it would be more correct to say, probably, that proposals for the amelioration of the conditions of the people meet with considerable opposition and, even when passed into law, may be contested in the Courts on the ground of unconstitutionality. The regulation of the hours of labour was not accomplished without considerable difficulty. The *Harvard Law Review* directs attention to the first case[1] determining the validity of a minimum-wage statute. Within quite a short period there has been a rapid spread of legislation fixing a minimum wage.[2] The Act in dispute was passed in the State of Oregon, where an Industrial Welfare Commission had been established to provide for the fixing of minimum wages and minimum hours of labour for women and children. The procedure was by conference between the representatives of the employers and employees.

The point for consideration was the condition of women's work in the city of Portland. The Conference recommended to the Commission, who made an order accordingly, that women should not be employed for more than nine hours a day or fifty hours per week; that the noon lunch period should not be less than forty-five minutes; and that the weekly wage should not be less

[1] *Stettler* v. *O'Hara* 139 Pac. 743.

[2] In some form it has been adopted as follows: California, Statutes 1913, c. 324; Colorado, Laws 1913, c. 110; Massachusetts 1912, c. 706, Acts 1913, c. 330, 673; Minnesota, Laws 1913, c. 547; Nebraska, Laws 1913, c. 211; Ohio, Constitutional Amendment, 1913; Oregon, Acts 1913, c. 62; Utah, Laws 1913, c. 63; Washington, Laws 1913, c. 174; Wisconsin, Statutes 1913, c. 1729, Laws 1913, c. 712, quoted in 28 *Harvard Law Review*, 91 *n.*

than $8·64—"any lesser amount being hereby declared inadequate to supply the necessary cost of living to such women factory workers, and to maintain them in health." It was to test the legality of this action that proceedings were taken in the State Supreme Court. The decision was based upon the position of women and children and their need of protective legislation. The analogy was applied of the legislative regulation of the hours of labour. The statute was upheld as constitutional. But it can hardly be considered that the judgment goes further than deciding in favour of this regulation of the conditions of work of women and children. Whether and under what conditions a minimum wage for men as embodied in legislation in England would be permissible in the United States, still awaits the consideration of the Courts.

Sir Thomas Crossley Rayner.—By the sudden death on May 23, 1914, of Sir Thomas Crossley Rayner, Chief Justice of British Guiana, the Journal lost a regular and valued contributor, and the Society a strong supporter of its work.

Born in Manchester in 1860, Rayner was educated at Owens College, from whence he passed to London University and the Middle Temple, where he was called to the Bar, May 3, 1882. Entering the colonial service, Rayner became a District Commissioner in the Gold Coast in 1887, but in 1890 was appointed a magistrate in Trinidad, where he filled various offices before returning to the Gold Coast as a puisne judge in 1894. In the following year Rayner became Chief Justice of Lagos, and was knighted in 1899. After seven years' tenure of that post, during which Sir Thomas acted on several occasions as Deputy-Governor, he was appointed Attorney-General of British Guiana. While in occupation of that office he compiled an admirable edition of the laws of the Colony, which was published in 1904–5. In 1912 he succeeded to the post which he held at the time of his death.

Comparative Law Bureau of the American Bar Association.—The annual Bulletin of the American Comparative Law Bureau does not seem to be so well known in the British Empire as it deserves, and it may be well to note briefly its contents. A valuable feature is the bibliographical information. Each number contains some special articles, and among them may be found the discussion of such abstruse subjects as the Scandinavian law of "nam" or distress. But the chief feature is the summary of legislation and decided cases, and notes of law books of various countries. The issue for 1914 contains Belgium, China, France, Germany, Great Britain, Holland, Japan, Latin America, Philippine Islands, Scandinavia, Spain, and Switzerland. It may be well to add that the Secretary is W. W. Smithers, Esq., Philadelphia, Pa., who will give further information about the aim and objects of the Bureau.

Wild Flowers at the Cape of Good Hope.—The Cape of Good Hope has recently passed an Ordinance extending previous legislation for the protection of wild flowers—flowers, ferns, and shrubs. Why should our English wild flowers

go unprotected? We protect wild birds. We protect the beauties of our natural scenery from disfiguring advertisements. But the wild flowers of our lanes and countrysides we still leave exposed to the wanton depredations of the Peter Bells of the world—the professional tramps and hawkers. Legislators are too prone to neglect these subtler influences on a people's life. "Let me have the making of a nation's ballads," said old Fletcher of Saltoun, "and I care not who makes their laws." Flowers have a potency and make an appeal wider even than poetry. It is not necessary to have the poetic sensibility of a Wordsworth to be moved by the "meanest flower that blows." The wild flowers of our woods and hedgerows are part of the heritage of our childhood, and the growing years only deepen our sense of their beauty and wonderfulness. They are more than æsthetic. They stir the emotions of our moral nature.

> "One impulse from the vernal wood
> Will teach you more of man,
> Of moral evil and of good,
> Than all the sages can."

That is profoundly true. We are trying nowadays to get back to nature, to give freer play to its wholesome and elevating influence on our lives; and among such influences surely one of the most precious is that of our wild flowers scattered in glorious profusion over hill and dale.

American Law in the English Courts.—Mrs. Munson has undertaken the laborious task of searching the 11,000 cases in the Law Reports from 1876 down to date with a view to finding how often American decisions have been cited, and published the result in the *American Law Review*. It is surprisingly small. There were only 251 references to American cases (counting each case mentioned separately) and 106 references to American text-books. Two-fifths of the cases occur in maritime law, using that term broadly to include both admiralty and marine insurance. The statistics were compiled before the war which has increased the number, *e.g.* the judgment in the *Marie Glaeser* (137 L.T. 471) referred to four American cases. While collecting the statistics, Mrs. Munson has noted the judges who have made use of them, their comments and their mistakes in citation. The conclusion is reached "that the English Courts are not getting as much help from American decisions as we would expect. One often reads an English decision with regret that a leading American was not called to the Court's attention and questions why a mass of law so easily accessible remains untouched." One reason, it may be hazarded, is that to the English barrister American case law is by no means "so easily accessible." A search through annual digests or even State consolidated digests is not lightly to be undertaken, and there is only one copy in London of the *Century Digest*—in the Middle Temple Library. Nevertheless, if the statistics had been divided into decennial periods it is probable that the use of American decisions would have been found to be increasing, especially in the last decade. It is not

merely that Canadian and Australian barristers direct attention to the bearing of American cases upon knotty points before the Judicial Committee of the Privy Council, but also that the insular attitude of mind, which naturally lingers long among men so conservative as lawyers, is being replaced by a broader outlook and a readiness to learn from any source which can impart useful and germane information.

The Australian Constitution.—In connection with the visit of the British Association to Australia, the Commonwealth Government issued a Federal Handbook for the information of the members, to which Professor Harrison Moore contributed a section dealing with the political systems of Australia. It is an admirable summary in less than fifty pages of the history of the present system of government, its working and the probable lines of development in the future. Here and there are interesting details which display the learned writer's intimate knowledge of his subject. He notes, for example, as one of the results of the system by which there are no Ministers outside the Cabinet, that the Attorney-General has always been in the Cabinet, a fact which gives the office a political rather than a professional character. It has, in fact, been held by gentlemen who were not members of the legal profession at all.

The One-Judge System.—From time to time proposals are made in the United States to abolish what is called the "one-judge system." In some States there seems to be a practice, with a view to facilitating the work of the Courts, of arranging that one member shall give full consideration to a case, and his judgment is handed down as the decision of the full Court. Naturally there is not the same confidence in the result as if all had considered it, and proposals have been put forward for legislation requiring that each case should be decided in conference before it is submitted to the judge who is to prepare the opinion of the Court. The proposed reform seems to proceed unnecessarily far in the opposite direction, and it may be suggested that the procedure—though often criticised—of the Privy Council is a happy mean between the two. By the established practice which dates back nearly three centuries, the opinion of individual members is not to be made public. One judge prepares the opinion which is submitted to each member of the Court for revision, with the result that the final opinion delivered as that of the whole is remarkably free from dicta.

Statute Law Revision.—The State of Wisconsin recently published a complete revision of its statutes. Mr. Belitz, assistant revisor of statutes, narrated to the American Association of Law Libraries at their annual meeting in 1914 how the mechanical part of the work was done.[1] The Act authorising the revision required the revisor "to keep and maintain at all times in the State library, in duplicate, a loose leaf set of statutes, including all sections in force, arranged numerically, and in connection with each

[1] "Some Auxiliaries of Statute Revision," *Index to Legal Periodicals and Law Library Journal*, July 1914.

section, sub-section, or paragraph of a sub-section, to designate the titles and sub-titles under which the same is indexed, and to keep an alphabetical card index of all such titles and sub-titles referring to such section, sub-section, or paragraph." Cases decided upon the statutes and repealed or amended statutes were to be recorded in loose-leaf ledgers in the same way. For the work of revision it was decided to cut up printed copies of the Acts. Mr. Belitz gives all the details even to the size of the room in which the 83,000 clippings were pasted with ordinary bookbinder's paste, "to which we added a few drops of oil of cloves, in order to prevent, or at least disguise, souring." The total work, of course, occupied a large number of volumes, but the account of its compilation is suggestive as to ways and means which may be found useful either for the actual work of statute law revision or in providing rapid means of reference to the statutes and cases decided upon them. The simplicity and efficiency of the system is shown by the fact that it renders possible the publication of a complete revised edition of the State statutes within three months of the completion of each biennial session.

Ante-Nuptial Incontinence.—In commenting in this Journal (vol. vii. p. 586) upon the case of *Shaw* v. *Shaw* (26 Natal L.R. 392), attention was directed to the fact that Roman-Dutch is more strict than English law in respect to ante-nuptial incontinence. A later action for nullity (*Kilian* v. *Kilian* [1908] E.D.C. 377) failed, however, as the defence showed that there was condonation by the husband after he became aware of the stuprum. The facts were peculiar. In October 1907, plaintiff had illicit intercourse with his fiancée. Discovering her to be pregnant, and believing her to be pregnant by himself, he married her in the following February. On March 20 she signed a document to the effect that she first misconducted herself with the plaintiff on October 27. On April 6 a full-time child was born, and there was evidence that the plaintiff had continued to cohabit with his wife although he knew in March that he was not the child's father. Probably the plaintiff's own misconduct contributed to the failure of his action. Another plaintiff having acted entirely in good faith obtained relief (*Pansegrow* v. *Pansegrow* [1910] O.F.S. 51). This plaintiff married a widow on September 6, 1909. Her husband had died about four years before. On March 29, 1910, she gave birth to a fully developed child, and persuaded her husband that the child was his, so that he continued to live with her for a month after the child's birth. On April 29 she confessed stuprum, and he ceased to cohabit with her. The decree of nullity was granted. The cases are recalled by a decision in the Scottish Court of Session (*A. B.* v. *C. B.* [1914] 2 Scots L.T. 107), in which the subject has received attention for the first time in Scotland. On September 6, 1913, the pursuer married the defender. The parties lived together until October 5, when they separated on account of differences. On January 13, 1914, the defender gave birth to a full-time child, which must have been procreated in April, whereas the pursuer only

began to keep company with her in the following August. Lord Skerrington, in delivering the judgment of the Court, reviewed the facts in their bearing upon the contractual obligation. He held that the defender knew or suspected herself to be pregnant at the time of her marriage, and did not believe that the pursuer shared her knowledge or suspicions. In these circumstances a duty of disclosure lay on the defender, and she acted fraudulently towards the pursuer by not informing him that she knew or suspected herself to be pregnant. The result was that the identity of the defender was not what the pursuer believed it to be, since, instead of being a woman "single in every sense of the word," she was "integrally united to another living human being." As a mistake as to identity nullifies the contract, the learned judge held that "the mistake under which the pursuer laboured came as near as being a mistake as to identity as it possibly could without actually being within that category," and that there was no satisfactory grounds for denying the desired relief. No difficulty was found in taking a view in conflict with the English law (see *Moss* v. *Moss* [1897] P. 263) or American decisions, but the Court felt more hesitation in reaching a conclusion differing from the opinions of eminent commentators of the Roman Canon Law, which is the foundation of the Scotch law of marriage. There does not seem, however, to have been any specific decision upon this point by the Rota Romana, so that the Court could only be referred to observations of ancient commentators upon hypothetical aspects of the legal difficulty.

Short Weight.—During some months of the parliamentary session of 1914 a Committee of the House of Commons was engaged in considering what steps should be taken to protect purchasers of goods sold in packages and of bread from short weight or measure. The retail trade of the country is largely regulated by custom and convenience, so that the Committee found themselves unable to adopt the suggestion pressed upon them by some witnesses that all goods should be sold by net weight. However, Mr. Pichmere, Town Clerk of Liverpool, submitted an interesting series of excerpts, showing that legislation with that object is already in operation in the Isle of Man, Ireland, France, Johannesburg, New South Wales, New York State, and New York City.[1]

Local and Personal Acts.—In the Review of Legislation it is neither possible nor necessary to deal with the large number of local and personal Acts, but every year there is published by order of the House of Commons a special report dealing with the points of novelty which have received consideration by the Local Legislation Committee. In the one for 1914[2] there are references to special powers obtained by the London County Council in respect to cinematographs, the method proposed by the Sheffield Corporation to meet the heavy cost of highway repairs due to motor omni-

[1] Report from the Select Committee on Short Weight. H.C. 359. (London: Wyman & Sons, 1*s.* 6*d.*)

[2] House of Commons Paper No. 432. (Eyre & Spottiswoode, 6*d.*)

buses, and the necessity for consolidation of the legislation of local authorities. There are several municipalities which have from fifty to one hundred different local Acts in force, of which many are very old, and their existence renders it extremely difficult to ascertain the law on any particular point which may arise in such municipality. If there be similar reports issued by the Dominion legislatures, notes from them would doubtless be of interest, and would be welcomed for publication.

Patent Medicines.—Mr. H. Wippell Gadd, the author of a synopsis of the British Pharmacopœia, kindly contributes the following notes upon the report[1] of the Select Committee on Patent Medicines, in which reference was made to various legislative enactments of continental countries and of British Dominions outside the United Kingdom:

"In considering these laws it must always be remembered that the conditions governing the practice of pharmacy and the sale of medicines differ in many foreign States widely from those obtaining in this country.

"Here, there is no monopoly, although the sale of poisons, within the meaning of somewhat narrow definitions, is confined to those who have conformed to stringent conditions of education and training. But in Germany, Austria, Hungary, and Italy, pharmacy is a protected industry, the number of establishments devoted to its practice being strictly limited in accordance with a somewhat generous measure of population.

"Hence it follows that laws and regulations which are suitable in other countries might be inequitable and oppressive in the United Kingdom, although it may freely be admitted that the indisputable evils attendant upon the practically unrestricted traffic in patent medicines, popularly but erroneously so-called, here, might be mitigated, if not entirely remedied, by a wise adaptation of methods which have had, at least, a partial success elsewhere.

"In the German Empire, patents for inventions of medicines and of preparations produced by chemical processes are only issued in so far as they are concerned with processes for the production of these substances. An actual medicine cannot be protected by patent, and consequently there are no patent medicines properly so-called.

"Pharmaceutical preparations may, however, be made and marketed, and the proprietary rights therein protected by trade marks.

"The retail trade in such preparations is somewhat strictly regulated, the preparations being divided into two main classes. Those in one class may only be sold in response to a medical prescription, whilst those in the other may be sold without a prescription, unless they contain drugs of special potency or their composition is unknown to the authorised sellers.

"In Austria, the enactments are still more stringent; practically no proprietary medicinal preparations may be retailed if their composition is secret, and they have not been officially authorised for sale.

[1] House of Commons Paper 414. (Wyman & Sons, 6*s.* 7*d.*)

"Further, preparations made in accordance with the National Pharmacopœia may only be sold under their official description, and some of the more potent drugs may only be retailed in single doses.

"Only recognised drugs may be used in compounding medicinal preparations, and authentic formulæ together with all labels and advertising matter must be always ready for inspection on official demand.

"There are similar laws in Hungary, with the further provision that the price of pharmaceutical specialities must be fixed in accordance with the official price list of chemicals.

"In Italy, the law is comparatively simple, but very stringent and comprehensive; all proprietary medicines must be submitted to the Sanitary Council of the Ministry of the Interior for insertion in the Official Pharmacopœia. In practice this means that an approximate statement of their contents must be revealed. The Italian Pharmacopœia, unlike the British one, is revised at frequent intervals.

"In France the sale of secret remedies, that is of pharmaceutical preparations, which are not included in the Codex (the official French Medicine Book), nor prepared for each case from the prescription of an authorised person, nor made public by the Government, nor authorised by the Academy of Medicine, is entirely prohibited, although there is evidence to show that the prohibition is not very effective in practice.

"In the United States of America, the conditions governing the sale of medicines approximate more closely to those obtaining in this country, but the trade in proprietary medicines is governed by the trade mark laws and the Sale of Food and Drugs Acts.

"Under the trade mark laws, it has been held in a number of cases that if the labels placed upon the bottles or packages containing medicines are deceptive or misleading, protection will not be given against any infringement of trade marks covering the preparations.

"The Sale of Food and Drugs Acts aim at repressing offences known as misbranding, a term which is taken to mean either—

(*a*) the offering of one article under the name of another;

(*b*) the changing of the contents of a package after it has been put up;

(*c*) failure to notify the presence of certain specified poisonous substances;

(*d*) labelling with any statement, design, or device which gives a false or fraudulent account of the curative or therapeutic effect of the substance, or a false account of the ingredients.

"Coming to our own Colonies, the Committee apparently only considered in detail the laws and regulations ruling in Australia and Canada respectively.

"In Australia, the traffic in proprietary medicines is regulated by a strict supervision of all printed matter, labels, etc., connected with medicines

imported into the Commonwealth. The control of Australian-made proprietaries is exercised by means of State laws, which differ *inter se*, but some of which require the declaration or deposition of formulæ, and particularly the exact statement on the label of the name and relative proportion present of any potent or toxic substance.

"In Canada, importers, manufacturers, and agents are required to take out annual certificates, and each medicine must be registered and the presence of certain dangerous drugs disclosed.

"A study of the evidence brought before the Select Committee can hardly fail to bring the conviction that the laws of the United Kingdom which deal with proprietary medicines are in urgent need of codification and reinforcement, but it is doubtful if any existing Department of State is competent to deal with the matter, which would seem to be inextricably bound up with the larger question of a Ministry of Public Health empowered to deal with this and other aspects of national security from internal ills."

NOTICE.

Several numbers of the Journal are out of print, and it is difficult to obtain copies. The Secretary will be very glad if he can be of assistance in helping subscribers to complete their sets. Communications may be addressed to the Assistant Secretary. It is proposed to issue before the end of 1915 a complete consolidated index to the volumes of the Journal, whereby it is hoped that its varied contents may be rendered more readily accessible for reference,

REVIEW OF LEGISLATION, 1913.

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INTRODUCTION.

[*Contributed by* Sir Courtenay Ilbert, G.C.B.]

The year of which the legislation is here under review was a year of peace, unbroken in Europe except by savage warfare between Balkan States which do not usually contribute much to the legislation of the world. The year in which this review is being written is marked by the outbreak of the most terrible war yet known, "the greatest tragedy in history."

The war has affected the work of this Society. There are gaps in our legislative record. Some of our staff have volunteered for military service, others have been unable to supply us with their usual contributions.

The character of next year's record will be altered. There will be much emergency legislation arising out of the war, there will have been less time to spare for legislation dealing with the social and economic problems which demand attention in times of peace. The political world is being mapped out afresh. Egypt, which in this year's Review ranks as a foreign country, will have now to take its place as a British Protectorate.

Meanwhile we have to carry our thoughts back, as best we may, to what is now beginning to appear a far distant time, to a time when the legislatures of the world were pursuing their ordinary peaceful course, only disturbed here and there by political conflicts.

These preliminary notes will, as usual, direct attention to a few of those features of legislation which are of interest beyond the countries immediately affected. They will follow the order adopted in the Review.

In the United Kingdom the legislation of 1913 was carried out in two sessions of Parliament. The long session of 1912-13 dragged on till March 7 in the latter year, when, after three days' interval, it was succeeded by another session. The former session was mainly occupied by bitter political controversies over the government of Ireland, the disestablishment of the Church in Wales, and other matters, and its legislative outcrop was small. But toward its fag end was passed a measure of much interest and importance to trade unions. It authorised, under limitations, the application of the funds of those unions to political objects, such as the payment of members. That application, which, before the time when members of Parliament were paid

out of public funds, had materially facilitated, and perhaps alone made possible, the election of some very useful representatives of labour, had been declared by court of law to be illegal. The Pilotage Act, which consolidated the pilotage law and brought greater uniformity into the work of the several pilotage authorities, was a very useful measure which also became law on the last day of the session.

The session which began in March 1913 produced some important legislation. The Appellate Jurisdiction Act, which increased the number of Lords of Appeal and of persons qualified, as holding or having held judicial positions in British Dominions or Colonies, to sit on the Judicial Committee, had for its object to facilitate the fusion of the two ultimate Courts of Appeal.

In the working of State finance, a practice which had for many years been found convenient both to the State and to traders had been stopped by the *Gibson Bowles* judgment, and the difficulty had to be met by legislation which is not altogether satisfactory in its character. It may be observed that a similar difficulty about bringing alterations in the law of customs and excise into immediate operation was made in South Africa in a somewhat different and apparently simpler manner.

Memories of events which, before they were terminated by the war, disturbed the public mind and distracted the Home Office are recalled by a measure which at the time of its passing was familiarly known as the "Cat and Mouse Act," and which authorised the temporary release of prisoners on "hunger strike." The great work of codifying and simplifying the criminal law, which had been begun by the Perjury Act of 1911, was continued by a Forgery Act on similar lines. The Bankruptcy Acts both for England and for Scotland were consolidated, with important amendments. A measure also combining amendment with consolidation placed the care of ancient monuments under an Ancient Monuments Board. A long-felt need was met by two Acts, one for Scotland, dealing with mental deficiency. A conflict between the two Houses, which at one time threatened the intervention of the Parliament Act, was settled by a compromise which recognised, for Scotland, the principle of local option in the grant of licences for the sale of intoxicating liquors.

In India the Governor-General's Legislative Council, at the instance of an unofficial member, altered the law of "wakf," as administered in British India, and thus facilitated the creation of family entails under the guise of religious endowments. The disturbances in Bengal produced amendments of the Penal Code and the Criminal Procedure Code having for their object to declare and amend the law of criminal conspiracy.

The Legislature in the Straits Settlements attempted to deal with scandals, not unknown in England, arising out of Government officials taking commercial posts after retirement from office.

The Navigation Act passed by the Legislature of the Australian Commonwealth in 1912 was reserved for consideration by the Crown, and did not

receive the Royal assent until 1913. It is an important and comprehensive measure, which raised many difficulties, arising from the limitations on the legislative powers of the Commonwealth, and from the necessity for avoiding or minimising conflicts with the rights and interests of non-Australian ships frequenting Australian waters. The regulation of wages paid to persons employed on ships engaged in the coasting trade illustrates these difficulties.

An Act of the Commonwealth Legislature placed Norfolk Island in the same position as British Papua and the Northern Territory, a position somewhat resembling that of "territories" in the United States. Norfolk Island had previously been administered by the government of New South Wales.

Two Acts set up joint committees of the two Houses of the Commonwealth Legislature. One of these joint committees performs functions corresponding to those of our Public Accounts Committee, the other considers and reports on public works undertaken by the Commonwealth. The members of these committees receive payment for their attendance. At Westminster the establishment of such committees would not involve legislation.

New South Wales consolidated the Acts about Crown lands. It also authorised the employment of prisoners at fixed rates of wages, their keep to be a fixed charge on their wages, and the remainder to be applicable to the support of their wives and children. Another Act facilitated the acquisition of dwelling-houses out of funds under the control of the Savings Bank Commissioners.

Queensland, probably for racial reasons, made the cultivating occupation of sugar lands subject to a "dictation test." An amendment of the election law authorised an elector to give a contingent vote and to vote by post.

South Australia amended its constitution. It also passed laws providing for cases of mental deficiency and authorising the compulsory detention of inebriates, but only after repeated convictions for offences in which drunkenness is a necessary ingredient.

Tasmania increased the payment of members of the Legislature to £200 a year, with an additional £100 for the Leader of the Opposition.

Victoria extended the powers of its Savings Bank Commissioners to make advances for farming properties, houses, and shops; amended its mining law and its regulations for the sale of fruit and vegetables; established a comprehensive scheme of compensation for accidents combined with compulsory insurance; increased the powers of municipal councils for the erection of dwelling-houses, and authorised them to rate on unimproved values; admitted women to the Senate of the Melbourne University; and enabled an oath to be taken without "kissing the book."

Western Australia re-enacted its criminal code with amendments.

The New Zealand Legislature showed its usual activity. Amongst other things it adapted to its local conditions the provisions of the Imperial Copyright Act; it amended its various Pension Acts for aged persons, for widows, and for persons who have been employed in military service; it modified its

graduated income tax by making the steps proceed by single pounds instead of by sums of £100 or more; it amended the constitution of the office of Public Trustee; it amended also the Acts relating to Crown lands and to the acquisition of lands for "closer settlement"; it constituted an Advisory Board for the Minister of Agriculture; it provided for the establishment of a naval force raised by voluntary enlistment; and it dealt with the subject of native lands.

The King's Regulations for the Western Pacific provided control for the re-enactment and employment of native labourers employed by British subjects, leaving control over French subjects within the Condominium to be exercised by the French authorities.

The Legislature of the Union of South Africa, as has been already noted, provided for bringing into immediate operation proposed changes in the duties of customs and excise. An important Forestry Act regulated the tenure, demarcation, and protection of forests. The legislature enacted a comprehensive code for the management of the customs of the Union, and a uniform law regulating immigration into the Union. The lists of prohibited immigrants and the provisions for dealing with Asiatics should be compared with the Australian and Canadian provisions on this thorny subject.

The Cape Legislature regulated public entertainments at music halls and the like, and the performance of religious dramas; laid down a programme for religious teaching in schools; and showed a laudable zeal for the protection of wild flowers. Places of entertainment formed a subject of legislation in the Transvaal also, and religious education in the Orange Free State. A proclamation for Northern Rhodesia set forth the jurisdiction of the High Court.

The Colonies and Protectorates of West Africa concerned themselves with land-holding by aliens and with the employment of women. Sierra Leone seems to be still afflicted by the murder societies, the human leopards and alligators, with which Mr. Albert Gray has made us familiar.

The necessity for regulating the pursuit of big game, which attracts sportsmen to the eastern parts of Africa, received recognition from the legislatures for that region. In the province of East Africa not more than four lions and two cheetahs may be killed under a single licence, and there are restrictions on the use of poison, traps, or set guns for capturing wild animals. In Uganda the giraffe, the elephant, and certain birds are specially protected. Touring in Somaliland is risky, and the Government has taken power to close certain outlying districts to travellers.

From East Africa our review passes to the South Atlantic. Before recent events had brought the Falkland Islands into prominent notice, little was known about them in England, except, possibly, that they are wind-swept and have a bishop. Students of their Ordinance for the protection of wild animals and birds will learn that they breed reindeer and several interesting kinds of wild birds.

For useful information about legislation in Canada we are indebted to the report of the Legislation Committee of the Ontario Bar Association.

The Dominion Legislature amended the Canadian Criminal Code, established a parcel post system, and confirmed a treaty with Japan and a trade agreement with the West Indies.

In Ontario, under the direction or at the suggestion of a Royal Commission, great progress was made with the revision and consolidation of the statute law, and to the labours of that Commission are due much of the fruits of a productive session.

The legislation of the Western States was much concerned with the development and settlement of new lands, and with problems arising out of Oriental labour. It also showed the influence of ideas derived from or suggested by United States models. For instance, both Alberta and Saskatchewan provided for a system of "direct legislation" by the people, a form of referendum.

The legislation for improvement of ports in the Bermudas, which are classed among the North American Colonies, illustrates the attractions which have brought crowds of Canadian and American visitors to these islands.

There is much information about legislation in the West Indies, but the details need not detain us here.

Among foreign countries Egypt appears for the last time. By far the most important piece of legislation in 1913 was the new Organic Law which established a new Legislative Assembly to take the place of the old Legislative Council and General Assembly, and introduced a larger electoral system and a fuller representation of the people. The constitution of this new legislature, its mode of election, the limitations on its powers and its relation to the Executive, and the constitution and powers of the Provincial Councils now established for purposes of local government, deserve careful attention from students of constitutional law. Besides this great Organic Law there was a good deal of legislation concerned with judicial reforms and the amendment of the Mixed Courts. Much of this will have to be revised whenever the time comes for abolishing the Capitulations in Egypt.

The French legislation of 1913 was of a miscellaneous character. It included the law of August 7, 1913, which arose out of the vote of the German Reichstag raising the peace footing of the German Army to 863,000, and increased the military burdens imposed on France by the law of March 21, 1907. A curious little law appears to grant an exception from the maxim "*En fait de meubles possession vaut titre*," by enabling hotel proprietors to give a valid security on their moveables while retaining possession of them, in fact to give bills of sale over their goods.

Italy strengthened its law for the prevention of cruelty to animals, authorised certain shipping subsidies, regulated the sale of intoxicating liquors, provided for habitual inebriates, and imposed disqualifications for drunkenness.

Norway made some interesting amendments in its new constitution. Russian legislation presented no features of special interest. Of German legislation we have no record.

Those who have read the reviews of legislation in the United States which have been supplied to us in previous years by Mr. Newton Crane need not be informed that they will find in his report for 1913 a varied and attractive bill of fare. The subject-matter is arranged, not under the different States, but under the different topics with which legislation is concerned.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

I.

Out of the thirty-nine Acts passed in the session of Parliament extending from February 14, 1912, to March 7, 1913, eleven public general Acts received the royal assent during 1913, and so were excluded from the last review of legislation.[1]

Aerial Navigation.—Some interest was aroused by an extension (No. 22, U.K.) of the Aerial Navigation Act of 1911[2] so as to include "the defence or safety of the realm" among the reasons on account of which aircraft may be prescribed within a certain area. The first prosecution under the Act was of a Belgian airman on May 15, 1913.

Shops.—The Act relating to the closing of shops, passed in 1911,[3] having been found to apply with some hardship to places of refreshment, was amended (No. 24, U.K.) so as to give the occupier an optional method of allowing relaxation to his assistants.

Railways.—In fulfilment of the pledge given during the railway strike of 1912 by the Government, the Railway and Canal Traffic Act 1894 was amended (No. 29, E. & S.) so that the companies may raise their charges in order to recoup themselves for the increased cost of working due to the concessions granted to the men. Another statute (No. 30, U.K.) connected with the relations between employers and employed was the Trades Union Act, which is a cumbrous piece of legislation. Its purpose is to include political propaganda among the objects which may be furthered by a trade union, but without detriment to the original statutory objects set forth in the Trade Union Act of 1876, which are still to constitute its main business. The Registrar of Friendly Societies is to decide whether the correct balance is maintained in the activities of the trade unions; but any person who considers himself aggrieved by the arrangements may appeal to the High Court. A bare majority of the members may decide that the funds of a trade union may be applied to political purposes; but

[1] See Journal, vol. xiv. p. 66. [2] See Journal, vol. xiii. p. 312. [3] *Ibid.* p. 322.

any payments on that account must be kept separate, and any member may be exempt from making his contribution. The exempted member is not to suffer any disability.

Pilotage.—The law relating to pilotage was consolidated (No. 31, U.K.) with amendments recommended by a Departmental Committee, whose secretary, Mr. E. Aylmer Digby, in conjunction with one of its members, Mr. Sanford D. Cole, prepared an annotated edition of the Act. Broadly stated, its main object is to establish some uniformity under the auspices of the Board of Trade, in the place of the confusion due to the activities of a number of pilotage authorities, working without co-operation and co-ordination, though without carrying centralisation to a degree to minimise the power and influence of the local authorities.

Miscellaneous.—Small amendments in the law were made to deal with the Clerks of Session (No. 235) and Sheriff Courts (No. 285) in Scotland, the pensions of Colonial Governors (No. 26), and the Agricultural Holdings Act, 1908 (No. 21, E.), and an Act (No. 25, I.) was passed to provide for the treatment of tuberculosis in Ireland.

II.

One session ended on March 7 and another began on March 10, 1913. In the latter there were passed 38 Public General Acts, 176 Local and Personal Acts, 4 Private Acts (printed), and 4 Private Acts (not printed).

Miscellaneous.—Short statutes were passed to amend the Companies Act, 1908 (No. 25, U.K.), to extend the hours of polling (No. 6, U.K.) at elections from 9 a.m. to 9 p.m. upon the application of one of the candidates, to deal with the method of executing instruments on behalf of the Commissioners of Woods and Forests (No. 8, U.K.), and to extend (No. 36, E.) the Bishoprics Act so as to constitute the counties of Essex and Suffolk and Sheffield with a contiguous area into separate dioceses.

Friendly Societies.—By an amendment (No. 31, U.K.) of the Industrial and Provident Societies Act, 1893, the date to which the annual returns are to be made up is altered with a view to securing that they shall be up to date as far as possible. An important amendment is made by s. 5. If a member has appointed a nominee to receive benefits or funds, and upon his death the amount payable by the society exceeds £100, the nomination is to be valid to the extent of that sum, "but not further or otherwise."

Finance.—There were several additions to the usual annual financial measures, including a grant (No. 30) of £3,000,000 to the Government of the Soudan for irrigation and the encouragement of cotton-growing, £10,000,000 for the development of the telephone (No. 24, U.K.), and modifications in the expenditure upon public buildings so as to allow for a payment for the College of Art, South Kensington (No. 14). In the same connection may

be mentioned the Act (No. 3, U.K.), rendered necessary by the Gibson Bowles judgment, "to give statutory effect for a limited period to resolutions varying or renewing taxation, and to make provision with respect to payments and deductions made on account of any temporary tax between the dates of expiration and the renewal of the tax."

Final Court of Appeal.—The Appellate Jurisdiction Act (No. 21) increases the number of law lords from four to six. It is intended as a preliminary to carry out the resolution of the Imperial Conference of 1911, of which the object was to strengthen the Judicial Committee of the Privy Council, so as to make one appellate tribunal for the Empire sitting in the House of Lords or the Privy Council, according to the exercise of its jurisdiction over Great Britain and Ireland or the other parts of the Empire.

Lunacy.—The manner in which the legislatures of the Dominions act more promptly and in advance of the Parliament at Westminster is shown by the Mental Deficiency Act (No. 28, E.), based upon the recommendations made by a Royal Commission in 1908. They were adopted in an Act passed in New Zealand in 1911.[1] Scientific classification of idiots, imbeciles, feeble-minded persons, and moral imbeciles; the strengthening of the central administration by the constitution of a board of control, and the pressure upon local authorities to seek out the mentally deficient and to make provision for their welfare, are the main features in a measure which has been duplicated, so far as possible, in an Act (No. 38) applying to Scotland.

Criminal Law.—The Prisoners' (Temporary Discharge, Ill-health) Act (No. 4) was passed to permit the release on leave of women prisoners who declined to take their food and so damaged their health as to be unfit to be detained longer in prison. The Act, however, is quite general in its terms, and is worded as usual in the masculine gender. The Government have continued their work of simplifying the law by consolidating into the Forgery Act (No. 27, E. & I.) the whole law on the subject, hitherto contained in more than seventy Acts of Parliament. The object of an addition (No. 7, U.K.) to the Children Act, 1908, is to prohibit children from being taken out of the United Kingdom with a view to singing, playing, performing, or being exhibited for profit unless adequate measures have been taken for their protection.

Ancient Monuments.—The law relating to ancient monuments is consolidated with amendments (No. 32, E. & S.). An Ancient Monuments Board is constituted to have the supervision of buildings of historic interest, and to report to the Commissioners of Works occasions upon which it is necessary for them to take action for their preservation. Local authorities are authorised to purchase them by agreement with the owner. Ecclesiastical buildings are exempted from the operation of the Act.

[1] See Journal, vol. xiii. p. 393.

Bankruptcy.—The Bankruptcy and Deeds of Arrangement (No. 34, E.) has been summarised at some length in the Journal.[1]

Merchandise Marks.—The Fabrics (Misdescription) Act (No. 17, U.K.) forbids the description, actual or implied, as inflammable of any textile fabric unless it conforms to a standard of inflammability prescribed by regulations. Of a similar character in securing the correct description of goods for sale is an Act (No. 9, E.) authorising an officer of the Board of Agriculture, upon request of the curers in a particular locality, to brand barrels of herrings after he has inspected their construction, capacity, and condition, and the quality, curing, selection, and packing of the contents.

Ireland.—Only one Act (No. 29) relating solely to Ireland was passed in the session. It dealt with intermediate education.

Scotland.—The series of eight statutes beginning with the Cessio (Scotland) Act, 1836, which contained the law of bankruptcy, are consolidated in one Act (No. 20), with amendments recommended by a departmental committee in 1910. Two Acts dealt with education. One (No. 13) divided the electoral district for the school, and the other (No. 12) made clear the powers of school boards in respect to the medical treatment of children. The medical service is the subject of another Act (No. 26) constituting a board for its improvement in the Highlands and Islands, and making a special grant for its maintenance. An "Act to promote temperance" (No. 33) endeavours to do so by conferring on the electors in prescribed areas control over the grant and renewal of certificates, by securing a later hour of opening for licensed premises and by amending the law relating to clubs.

2. THE ISLE OF MAN.

The process of assimilating the legislation of the Island to that of the United Kingdom was continued during the session of 1913. Acts similar to the Incest Act, 1908,[2] and the Probation of Offenders Act, 1907,[3] were passed into law, and the legislation relating to the superannuation of elementary school teachers was made applicable to the Island's system of education. The motor-races have rendered necessary further legislation in respect to motor-cars on the highways, mainly in the direction of prohibiting motor traffic on the Sundays before and after the races. A long Act regulates the conditions under which the Trustees of the Common Lands of the Island may acquire the Lord's or Chief Rents of the Island owned by the Commissioners of Woods and Forests on behalf of the King and the Bishop of Sodor and Man, and facilitates the redemption of such rents by those liable for their payment.

[1] Vol. xiv. pp. 34–37. [2] 8 Ed. VII. c. 45. [3] 7 Ed. VII. c. 17.

3. JERSEY.

[*Contributed by* E. T. NICOLLE, ESQ.]

The English Copyright Act, 1911, was, in accordance with the terms of s. 37 of the said Act, promulgated as the law of Jersey as from March 8, 1913.

The States of Jersey passed a law on January 30, 1913, confirmed by Order-in-Council of March 7, 1913, prohibiting the use in Jersey of the Royal Arms without permission for commercial or professional purposes.

A law passed on February 25, 1913, and confirmed by Order-in-Council of April 11, 1913, slightly modifies the law on Criminal Procedure of 1864 as regards juries. In criminal trials in Jersey the jury is composed of twenty-four jurors, and until the passing of this amending Act it was necessary that twenty should agree to find a verdict of guilty. By the amending Act (1913) this number is reduced, and the concurrence of sixteen jurymen only is required to bring in a verdict of guilty.

In 1913 the States of Jersey decided to levy a tax on beer. The Legislative Act passed in consequence on July 3, 1913, and confirmed by Order-in-Council of August 12, 1913, is very complete, and, technically, up to date. It is based on the English system of levying the duty.

4. GUERNSEY.

[*Contributed by* M. F. PH. HERCHENRODER, ESQ.]

The principal Orders-in-Council made during 1913 relate to the following matters:

Appeals.—The Order-in-Council of May 13, 1823 (registered on the records of the Island on June 28, 1823), which previously governed the right of appeal, is repealed in its entirety, saving the provision that appeals to His Majesty in Council are to be prosecuted within six months from the date of judgment appealed from.

No appeal is to lie from the "Cour Ordinaire" to the "Cour des Jugements":

(*a*) Where the sum in dispute does not exceed £10 sterling; or

(*b*) Where the case involves taking oral evidence and neither of the parties has applied and the Court has not ordered that the evidence should be taken down in writing (though the sum in dispute exceeds £10).

An appeal will, however, lie, notwithstanding that the sum in dispute does not exceed £10, or that no sum is in dispute in the action,

(*a*) where the Court is satisfied that the case involves a principle of right, of law, or of custom; or

(*b*) where, no sum being mentioned in the action, the object in dispute exceeds £10 in value. Provided always that, where the case involves taking oral evidence, either of the parties has applied and the Court has ordered that the evidence should be taken down in writing.

No appeal is to lie from the "Cour des Jugements" to His Majesty in Council:

(*a*) Where the object in dispute, being real property, is not of the annual value of £10; or

(*b*) Where the object in dispute, being personal property, is not the value of £200.

An appeal will, however, lie, notwithstanding that the object in dispute is not of the said value, where the Court is satisfied that a principle of right, of law, or of custom is involved.

Copyright.—Orders-in-Council made at various dates under the authority of the Copyright Act, 1911, with respect to the protection to be given by way of copyright to various foreign countries, are directed to be registered and published in the Island.

Motor Vehicles.—Legislation to give force in the Island to the terms of the International Convention with respect to facilities for Motor Vehicles is adopted.

Miscellaneous.—Other Orders-in-Council prohibit the unauthorised use of the Royal Arms in the Island for the purposes of any business, trade, calling, or profession; remove the necessity for military officers, men, etc., to stamp all receipts that they give to the Command Paymaster for sums amounting to £2 and upwards; make supplementary provisions with respect to the drainage of the Parish of St. Sampson.

Ordonnances.—The Ordonnances of the Royal Court, which is a legislative as well as judicial body, deal, amongst other matters, with the importation of potatoes, hay, etc.; horses, asses, mules; plants, bulbs, shrubs, etc. One is devoted to the Royal Militia of the Island: service in time of war is compulsory between the ages of sixteen and sixty; in time of peace, between seventeen and forty-five. Numerous exemptions are, however, allowed. Minute provisions are made with respect to its organisation. The Ordonnance of October 5, 1903, relative to taxation on tobacco is renewed with certain amendments.

II. BRITISH INDIA.

[*Contributed by* Sir Courtenay Ilbert, G.C.B.]

1. ACTS OF GOVERNOR-GENERAL IN COUNCIL.

Acts passed—8.

Extradition.—The Indian Extradition (Amendment) Act (No. 1) extends to chief presidency magistrates in presidency towns the duty of district magistrates to execute extradition warrants issued by political agents for Native States.

Official Trustees.—The office of Official Trustee, though a recent importation into England, is of some standing in India. The Official Trustees Act (No. 2) repeals the Act of 1864 under which the office of Official Trustee was first constituted, and re-enacts it with the provisions of some amending enactments and with some further alterations. The Official Trustee is now placed under the control of the executive government instead of being, as formerly, under the dual control of the Government and the High Court. He can, amongst other things, accept a trust for a religious purpose under conditions prescribed by rules.

Administrators-General.—The Administrator-General's Act (No. 3) was piloted through the Legislature as a twin measure with the Official Trustee Act. It supersedes the original Act of 1874, consolidates it with amending enactments, and makes some further amendments in matters of detail

Endowment of Baronetcy.—The Sir Currimbhoy Ebrahim Baronetcy Act (No. 4) follows the precedent of the Cowasjee Jehangir Baronetcy Act[1] by settling estates on a newly created baronet and his heirs in order to support the dignity of his hereditary title.

White Phosphorus Matches.—The White Phosphorus Matches Prohibition Act (No. 5) prohibits the importation, manufacture, and sale of matches made with white phosphorus. The Indian Legislature has now followed the lead of most civilised countries in enacting this prohibition, but not until after some delay. Various reasons were urged against the adoption of this measure. It was said that Indian factories which used white phosphorus enjoyed immunity from that terrible form of necrosis known as "phossy-jaw." The reasons for the immunity were not explained, and the difficulty of detecting disease in India was a probable explanation of the fact alleged. It was also said that the raiyat or cultivator could not, especially in the damp and rainy parts of the country, get on without the "strike anywhere" matches which he likes to carry in his turban. But it was found difficult to establish a ratio between rainfall and the demand for white phosphorus matches, and

[1] No. 19 of 1911.

it was proved that in Burma, where these matches have been prohibited since 1890, the dwellers in the Irrawaddy swamp had got on without them for twenty-three years. The rest of India will now have to undergo, in the interests of health, the same inconvenience, and will doubtless get over it.

Muhammadan Endowments.—The Mussulman Wakf Validating Act (No. 6) is a law of great interest and importance. The courts of British India recognise the validity under Muhammadan law of a *wakf*—*i.e.* of an endowment for religious, pious, or charitable purposes. Such an endowment is not vitiated by the fact of its containing provisions in favour of individuals named, even including the founder himself, or of a series of unborn individuals, provided that the primary object appears to be the permanent application of the property to some public and unfailing purpose. But the Judicial Committee of the Privy Council have decided that if the main purpose of the settlement is the aggrandisement of a private family, and if there is either no endowment of a public nature or an endowment comparatively insignificant in amount, or made to take effect only in a very remote contingency, then that part at least of the deed which is of a private nature is invalid.[1] Such an endowment was regarded as an evasion both of the rules against perpetuity and of the rules of Muhammadan law for the distribution of property on death. But these decisions of the Privy Council have been much criticised by Muhammadan lawyers, and in particular by Mr. Ameer Ali, as incorrect interpretations of Muhammadan law.[2] And certainly in other Muhammadan countries, including Indian Native States, that law has been construed in a sense more favourable to family settlements.

In the year 1911 Mr. Jinnah, a successful Muhammadan barrister of Bombay, who is an unofficial member of the Governor-General's Legislative Council, introduced in the Council a measure for amending the law as to these endowments. His Bill was regarded by the Government with "benevolent neutrality," and the Law Member of the Governor-General's Council, who is a Muhammadan, represented the benevolent side of this neutrality. This is the measure which has now become law. It recites the expediency of removing doubts regarding the validity of *wakfs* created by persons professing the Mussulman faith in favour of themselves, their families, children, and descendants, and ultimately for the benefit of the poor, or for other religious, pious, or charitable purposes. It defines a *wakf* as the permanent dedication by a person professing the Mussulman faith of any property for any purpose recognised by the Mussulman law as religious, pious, or charitable. It enacts that it shall be lawful for any person professing the Mussulman faith to create a *wakf*, which in all other respects is in accordance with the provisions of Mussulman law, for the following among other purposes :

[1] This is how the law is stated in Sir R. K. Wilson's *Digest of Anglo-Muhammadan Law*, p. 323.

[2] *Muhammadan Law*, fourth ed. vol. i. p. 334.

(*a*) for the maintenance and support, whole or partially, of his family, children, or descendants, and

(*b*) when the person creating a *wakf* is a Hanafi Mussulman, also for his own maintenance and support during his lifetime or for the payment of his debts out of the rents and profits of the property dedicated.

Provided that the ultimate benefit is in such case expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussulman law as a religious, pious, or charitable purpose of a permanent character. No such *wakf* is to be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious, or charitable purpose of a permanent nature is postponed until after the extinction of the family, children, or descendants of the person creating the *wakf*.

The debates on the Bill are interesting, and show that the object of the measure is to facilitate the creation of family entails.

Companies.—The Indian Companies Act (No. 7) is a bulky measure of consolidation and amendment, which contains 290 sections and four schedules, and follows generally the lines of the English Companies Act, 1908. The subject of banking was reserved for separate legislation, and special provisions about managing agents, which at one time were to have been inserted in the Bill, were eventually reserved for treatment by a supplemental measure.

Criminal Conspiracy.—The Indian Criminal Law Amendment Act (No. 8) amends both the Indian Penal Code and the Code of Criminal Procedure. In the Penal Code, between the chapter relating to abatement and the chapter relating to offences against the State, it inserts a new chapter on Criminal Conspiracy containing two sections.

The first of these sections (120 *a*) defines criminal conspiracy. Where two or more persons agree to do or cause to be done

(1) an illegal act, or

(2) an act which is not illegal by illegal means,

such an agreement is designed criminal conspiracy.

Provided that no agreement except an agreement to commit an offence shall amount to criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

There is an "explanation" that it is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

The second section (120 *b*) imposes penalties varying with the seriousness of the offence.

The first of these sections should be compared with s. 121 *a*, which was added by Sir James Stephen to the Penal Code for the purpose of covering conspiracies against the State. The new section, which applies the English common law of conspiracy, with limitations, extends the provisions of the code to conspiracies other than those against the State.

The new section (196*a*) added to the Code of Criminal Procedure determines the cases in which proceedings for criminal conspiracy must be initiated by or with the consent of the Government or a magistrate authorised by the Government.

The unsatisfactory state of things in Bengal at the time when this Act was passed had led the Government of India to the conclusion that an extension of the law relating to criminal conspiracy was needed for British India.

2. MADRAS.

Acts passed—3.

Excise.—The Madras Akbari (Amendment) Act (No. 1) amends the Act of 1886 by adding provisions, suggested by the Excise Committee of 1905-6, for the control of denatured spirit, and by making other amendments, which include provisions for bringing under control the power of bottling liquors for sale, and for applying the Act specifically to the product of the cocoa plant.

Irrigation.—The Madras Irrigation Cess (Amendment) Act (No. 2) amends the Act of 1865 by making the cess or rate recoverable either from the landholder or from the ryot (cultivator) or in shares from both.

Local Government.—The Madras District Municipalities and Local Boards (Amendment) Act (No. 3) amends the Act of 1884 by enabling municipal and local councils and panchayets to lease or farm out fees.

3. BOMBAY.

Acts passed—7.

Municipal Government.—The City of Bombay Improvement (Amendment) Act (No. 1) reproduces, with modifications, the provisions of a Bill which was introduced in 1907 and withdrawn in 1909. It confers on the Bombay Improvement Trustees powers to make and carry out schemes for the improvement of streets and for the accommodation of the poorer classes. The lands known as the Flats are to be permanently appropriated as open spaces, and may at any time be laid out by the Board of Trustees as recreation grounds or parks for the use of the public. When the Government are satisfied that there is no longer any necessity for the continuance of the Board of Trustees the Board may be dissolved and their assets and liabilities will vest in the City Corporation.

Court of Wards.—The Bombay Court of Wards (Amendment) Act (No. 2) makes minor amendments in the Court of Wards Act of 1905.[1]

Port Trust.—The Bombay Port Trust (Amendment) Act (No. 3) amends the financial provisions of the Act of 1879. It applies to debentures issued

[1] No. 1 of 1905. See *Legislation of the Empire*, vol. iii. p. 36.

by the Board of Trustees the provisions of s. 46 of the Indian Securities Act, 1886, which prohibits the indorsement of debentures otherwise than on the back of the debenture itself, thus varying the provisions of s. 15 of the Negotiable Instruments Act, 1881.

Land Revenue.—English Acts of Parliament framed on the plan of amending, applying, and adapting the provisions of other Acts are sometimes denounced as "Chinese puzzles." Those whose brains have been racked by attempts to understand measures so framed may perhaps derive consolation from a study of the Bombay Land Revenue (Amendment) Act (No. 4). The subject with which this Act deals is difficult and complicated, and very possibly did not easily admit of any other form of treatment. But the measure as passed by the Legislature, though doubtless intelligible by revenue experts, is not one which he who runs may read.

The difficulties which led to the enactment of this measure are instructive to those who are interested in the registration of title to land. Under the Bombay Revenue Code of 1879 the person primarily liable for the payment of land revenue in respect of any plot of land is the person registered in the settlement register as occupant of the land. But no adequate provision was made for recording in that register changes in the beneficial occupation of land, and thus, as changes took place, registered occupancy ceased to afford any clue to the beneficial possession, which was intended to be, and ought to be, the foundation of legal liability for revenue. A later Act of 1903[1] provided for the preparation and maintenance of records of rights showing the persons for the time being in actual possession of the land. The new Act incorporates in the Land Revenue Code the provisions of the Act of 1903, and makes consequential provisions imposing liability for revenue on those recorded as being in beneficial possession.

Mosquitoes and Public Health.—Act No. 6, which has no short title, amends the Bombay Municipal Act, 1888. It gives effect to suggestions made by Dr. Bentley in his report of an investigation into the causes of malaria in Bombay. The Municipal Commissioner is authorised to require the filling up, covering over, or draining off

(*a*) Any pool, ditch, tank, well, pond, quarry-hole, drain, water-course, or any collection of water, or

(*b*) Any cistern or other receptacle for water whether within or outside a building, or

(*c*) Any land on which water accumulates and which is situate within a distance of a hundred yards from any building used as a dwelling house, and is, or is likely to become, a breeding-place of mosquitoes, or in any respect a nuisance.

The Act also enables him to control the construction of new wells, tanks, ponds, cisterns, and fountains. And, lastly, it requires licences to be taken out for dealing with milk.

[1] No. 4 of 1903. See *Legislation of the Empire*, vol. iii. p. 35.

4. BENGAL.

Acts passed—4.

Burials.—The Calcutta Burial Boards (Amendment) Act (No. 1) provides for the establishment of Calcutta burial boards for communities other than Christian or Muhammadan. For Christians and Muhammadans burial boards had been established by Acts of 1886 and 1889.

Board of Revenue.—The Bengal Board of Revenue Act (No. 2) authorises the establishment for Bengal (as delimited under recent arrangements) of a Board of Revenue consisting of a single member, with power to appoint a temporary additional member.

Public Demands Recovery.—The Bengal Public Demands Recovery Act (No. 3) sets up a code of procedure for the recovery of public demands, in substitution for the previous Acts, which had applied and adapted provisions of the general Code of Civil Procedure.

Gambling.—The Bengal Public Gambling (Amendment) Act (No. 4) extends the scope of three previous Bengal Acts and repeals a fourth [1] which dealt specifically with "rain gambling." Statutory definitions of "gaming" or "gambling" are always interesting, both for the inclusive words which gamblers have to evade and for the exclusive words which legislatures have to accept. In the new Bengal Act "gambling" includes wagering or betting [except wagering or betting upon a horse-race when such wagering or betting takes place—

(*a*) on the day on which such race is to be run, and

(*b*) in an inclosure which the stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],[2]

but does not include a lottery.

There are also definitions of instruments of gaming and of "common gaming house," and there is an exemption for "games of mere skill."

5. BIHAR AND ORISSA.

Acts passed—2.

Board of Revenue.—The Bihar and Orissa Board of Revenue Act (No. 1) follows the Bengal legislation by establishing a single member Board of Revenue for the new province, with power to appoint a temporary additional member.

Landlord and Tenant.—The Orissa Tenancy Act (No. 2) is a bulky code, which amends, rearranges, and consolidates numerous statutory provisions dealing with the law of landlord and tenant in three districts of Orissa—those of Cuttack, Puri, and Balasore.

[1] No. 3 of 1897.

[2] Note the brackets [ ] which appear in the Act, and without which the construction would be ambiguous.

6. UNITED PROVINCES.

Acts passed—None.

7. PUNJAB.

Acts passed—3.

Preemption.—The Punjab Preemption Act, 1913 (No. 1) supersedes and repeals the Preemption Act of 1905.[1]

The effect of the new Act appears to be to limit the class of cases within which the right of preemption of land is exerciseable and to enlarge the power of the Government to grant exemptions from the right.

Mortgages.—The Redemption of Mortgages Act (No. 2) supplies a summary form of procedure for the redemption of small mortgages. The Act applies only where the area mortgaged does not exceed thirty acres or the money secured does not exceed 1,000 rupees.

Punjab.—The Punjab Forest (Sale of Timber) Act (No. 3) empowers the Local Government to make rules regulating the sale of timber and the establishment of sale depôts for timber.

8. BURMA.

Acts passed—1.

Revenue.—The Burma Land and Revenue Amendment Act, 1876 (No. 1), makes some miscellaneous amendments in the law on the subject.

9. REGULATIONS UNDER 33 VICT. C. 3.

Regulations made—4.

Baluchistan.—The British Baluchistan Law Regulations (No. 2) declares what British Indian Acts are to be in force in British Baluchistan.

Angul District.—The Angul Laws Regulation (No. 3) does the same thing for the district of Angul, one of the hill-tracts of Orissa, and also provides a kind of general code for the district, with provisions for the constitution and jurisdiction of courts, the administration of criminal and civil justice, the recovery of public demands, police, registration of documents, the law of landlord and tenant, and sanitation.

The other two Regulations, for Coorg (No. 1) and for Upper Burma (No. 4), merely amend previous Regulations.

[1] No. 4 of 1905. See *Legislation of the Empire*, vol. iii. p. 52.

III. EASTERN COLONIES.

1. CEYLON.

Ordinances passed—15.

The Ordinances of the year effected only small amendments.

Lights on Vehicles.—The object of No. 5 is to diminish "the risk of collisions between motors and vehicles drawn by bullocks or horses when travelling at night. Previously a bullock cart was only compelled to carry one light, which was usually so slung as to be more visible in the rear than in the front. A horse-drawn vehicle carried two lights, but was under no obligation to throw any illumination in the rear, and was in consequence often invisible to an approaching motor. The Ordinance provides that all such vehicles shall carry two lights, each throwing a white light in front and a red light behind."[1]

2. HONG-KONG.

[*Contributed by* C. G. ALABASTER, ESQ., *Editor of the New Revised Edition of the Laws of Hong-kong.*]

Ordinances passed—30.

Revision of the Laws.—The revision of the Ordinances of the Colony from 1844 to 1912 authorised by Ordinance No. 19 of 1911[2] was completed during the year under review, and in accordance with the provisions of the last-named Ordinance the revised Ordinances were adopted by the Legislative Council on August 28, 1913.

Noises at Night.—The Summary Offences Amendment Ordinance (No. 1) by substituting a new section for s. 13 of the principal Ordinance (No. 1 of 1845), which only applied to the city of Victoria, makes it an offence to make, between sunset and 6 a.m., noises calculated to disturb the public tranquillity or any person in any districts to which the Governor in Council may, by notification in the Gazette, apply the provisions of the section. The section has since been applied by Notification No. 41 of 1913 to the city of Victoria and a portion of Kowloon—that rapidly growing town on the opposite side of the harbour which contains the terminus of the railway.

Opium.—The Opium Amendment Ordinance (No. 2) makes many changes in the principal Ordinance (No. 23 of 1909). Warehouses are established for the storage of raw opium, and by a system of permits the movement of opium is stringently controlled. Penalties are increased. No person other than the opium farmer or his licensees is permitted to have in his possession more than five taels of prepared opium without the written permission of the superintendent.

[1] Ceylon, Report for 1913. Cd. 7050-43.

[2] See Journal, vol. xiii. p. 336.

Flogging.—By the Magistrates Amendment Ordinance (No. 3) the power of magistrates to order the flogging of prisoners is extended to offences in relation to kidnapping, forcible or fraudulent emigration, stowaways, and to deported criminals who return to the Colony.

General Loan and Inscribed Stock.—The General Loan and Inscribed Stock Ordinance (No. 7) declares the terms and conditions applicable to loans authorised to be raised by the Government and provides for the creation of Hong-Kong Inscribed Stock. It repeals Ordinance No. 1 of 1893. Loans are to be raised either by debentures or by inscribed stock or partly by one and partly by the other.

Cruelty to Children.—The Offences against the Person Amendment Ordinance (No. 9) introduces into the law of the Colony the provisions of s. 12 of the Children Act, 1908.[1]

Banishment.—The Deportation Ordinance (No. 10) permits the summary deportation of aliens convicted of crime and simplifies the procedure in the case of unconvicted undesirables, while preserving the main features of the system established by Ordinance No. 9 of 1912.[2]

Foreign Money.—The flooding of the Colony with debased foreign currency caused such a dislocation of trade that it was eventually decided that the only method of restoring the Colony's currency to par was to adopt a policy of rigorous exclusion of foreign coins and notes. A start was made by Ordinance No. 11 of 1912,[3] which excluded foreign copper and bronze coins. This has been followed by the Foreign Notes (Prohibition of Circulation) Ordinance and the Foreign Silver and Nickel Coin Ordinance (Nos. 13 and 15 respectively of 1913).

Solicitors.—The Legal Practitioners Amendment Ordinance (No. 19) by amendments to the principal Ordinance (No. 1 of 1871) places restrictions on the admission of solicitors to practise in the courts of the Colony. Those who desire to be admitted are required to give four months' previous notice to the Registrar of the Supreme Court, and to the secretary of the Hong-Kong Law Society. An applicant is also required to deposit with the Registrar his certificate of admission, together with a certificate from the proper officer of the court issuing such certificate of admission that such last-mentioned certificate is still valid and in force, and a further certificate of fitness and character signed by two practising attorneys, solicitors, or writers of at least five years' standing in one of the courts at London, Dublin, or Edinburgh, and he is also required to file an affidavit of identity. The Chief Justice may, however, after notice to the Hong-Kong Law Society, exempt the applicant from the provisions of the Ordinance where special grounds exist.

Wireless Telegraphy.—The Wireless Telegraphy Ordinance (No. 20) permits the establishment and working of wireless installations under licence from the Governor.

[1] 8 Ed. VII. c. 67.

[2] See Journal, vol. xiv. p. 79.

[3] See Journal, vol. xiv. p. 80.

Explosive Substances.—The Explosive Substances Ordinance (No. 23) applies to the Colony the provisions of the Explosive Substances Act, 1883.[1]

Education.—The Education Ordinance, 1913 (No. 26), provides for the registration and supervision of schools.

Sugar Convention.—The Sugar Convention Ordinance, 1913 (No. 29), merely repeals Ordinance No. 14 of 1904,[2] which had been passed to give effect to Article VIII. of the Brussels Convention.

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—18.

Arms and Explosives.—Ordinance No. IX. consolidates with amendments no less than seven enactments (beginning with Indian Act, No. XXXI. of 1860) which hitherto dealt separately with the subjects of explosives, arms, and the exportation of arms respectively. Provisions have been introduced into the new Ordinance to strengthen the hands of those who have to administer this branch of the law. A decision (June 1912) of the Supreme Court at Singapore on appeal, reversing a magistrate's conviction, is responsible for the presumption, now enacted in section 3 (3), that a person shall be deemed to have "imported" an article into the Colony who, whether as owner, consignee, agent or broker, is in possession of or in anywise entitled to the custody or control of the article, as also for the requirement, in s. 14, for permits to land or transship guns or arms to be given to the owner, master or agent of any vessel arriving or about to arrive in port carrying these articles—which permits, however, do not render any other person free from prosecution for importing the articles without a licence. Ss. 34 and 35 are likewise new, and empower the police to arrest without warrant any person found offending against the Ordinance, and to take him to a police-station.

Betting (Ordinance No. V.)—This amendment of Ordinance No. XVI. of 1912 [3] aims at putting an end to all professional betting. In taking away the absolute immunity from the penalties of the principal Ordinance possessed by racecourse grounds and buildings on race-days, it makes the privilege in future dependent upon the Order of the Governor in Council exempting, either generally or in particular, from the provisions of the Ordinance the members and officers of any racing club or association in respect of any totalisator or *pari-mutuel* promoted by it solely for its members.[4]

[1] 46 & 47 Vict. c. 3.

[2] See *Legislation of the Empire*, vol. iii. p. 101.

[3] See Journal, vol. xiv. p. 84.

[4] See Federated Malay States Enactment No. 10, below, p. 20.

Crown Lands.—Ordinance No. XVI. amends the principal Ordinance[1] by enabling the Crown to issue freehold grants of land which, originally acquired from private owners out of municipal funds for municipal purposes under such enactments as the "Acquisition of Land for Public Purposes Ordinance,"[2] it is subsequently desired to dispose of when found to be no longer required for those purposes.

Deleterious Drugs and Dentists.—Ordinance No. XIV. amends the principal Ordinance[3] by restricting the practice of dentistry to properly qualified or otherwise adequately trained persons. Under this Ordinance, any one holding a recognised qualification may be licensed to practise dentistry without showing that he has practised dentistry in the Colony or the Federated Malay States, and any one who is not qualified must show either that he has practised in these places for six months before the passing of Ordinance XXVI. of 1910, or that he has been licensed under that Ordinance. This old Ordinance required the holder of a recognised qualification to practise for six months in the Colony or the Federated Malay States before he could obtain a license, and the holder of no qualification could obtain a license on showing that he had practised in the Colony or the Federated Malay States for six months before the passing of the Ordinance.

Estate Labourers.—It was felt that the hospital accommodation necessary for adequately attending to the needs of sick labourers on agricultural estates could be more economically, as well as more efficiently, provided if they were placed under one control in certain districts. At the same time, it was not desirable to relieve estate-owners of the liability cast upon them by the principal Ordinance[4] of providing for the health of their labourers. The general idea of the amending Ordinance (No. XVIII.) is, therefore, that in such parts of the Colony as may be suitable, the owner should be relieved of the duty of constructing and maintaining separate hospitals, but should contribute instead a rateable lump-sum per cultivated acre for the purpose of constructing and equipping hospitals common to defined areas, and an annual rate towards their upkeep.

Hence a Part II. is added to the principal Ordinance, containing provisions for the erection of a "rural hospital" for all cultivated areas exceeding ten acres in the aggregate, and imposes a rate of not exceeding $3 per acre payable by the owner thereof to the "Rural Hospital Board."

Summary measures by attachment, etc., as in the case of municipal rates, are enacted for the enforcement of payment of this hospital rate.

Export Duties.—Ordinance No. X. enables the Government of the Federated Malay States to collect within the Colony export duties due to it on goods arriving by railway. The officers in charge of such collection are under a dual control in so far as they are to be appointed by the Governor of the Colony, but on the nomination of the Government of the Federated Malay

[1] No. XII. of 1903.
[2] No. VI. of 1890.
[3] No. XXVII. of 1910. See Journal, vol. xii. p. 380.
[4] No. VII. of 1911.

States, and such appointment may be revoked by the Governor at any time. S. 10 further invests such officers with the same powers as a revenue officer under the Opium and Liquors Revenue Ordinances,[1] in respect of search, arrest, etc.

Infectious Diseases.—Ordinance No. VII. is in reality a temporary measure designed to deal, separately from the Municipal Ordinance, 1913, with the subject of public health, which it is intended to legislate upon more comprehensively hereafter. It embodies, with a few verbal alterations, the sections dealing with this subject in the old Municipal Ordinance (No. XV. of 1896) and is analogous in form and matter to the English Public Health Acts Amendment Act, 1907,[2] requiring occupants of infected houses, medical practitioners, and other persons in charge of sufferers from "dangerous infectious diseases" to give immediate notice of the occurrence of the disease to the municipal health officer, in whom, with the municipal commissioners, the supervision of health-precautions and the enforcement of the Ordinance are vested. The Ordinance further defines "dangerous infectious diseases," and contains, like the English Act above referred to, detailed precautionary measures as to the method of removal of patients, disinfection, recapture of persons escaping from segregation stations, inspection of dairies, vaccination, prohibition of infected persons from milking any animal or picking fruit, or otherwise contaminating food, etc.

Merchandise Marks.—As a result of representations to the Board of Trade in London, the Secretary of State for the Colonies suggested an amendment of the local law to meet cases of gold and silver articles being sold which were not in reality of the fineness indicated by the marks superscribed on them. In consequence, an amending Ordinance (No. VI.) like Enactment No. 6 of 1913 of the Federated Malay States, by making the words "trade description" in the principal Ordinance include statements as to the fineness of gold and silver goods, makes it an offence to import such goods bearing false trade-marks, in addition to selling them.[3]

Municipal.—Ordinance No. VIII. consolidates Ordinance No. XV. of 1896 and its numerous amendments which, with the lapse of time, were felt to be somewhat inadequate, and at the same time introduces some important modification of principle, the chief of which may be briefly summarised as follows:—

(1) The old elective system is abolished, and the municipal commissioners are to be nominated by the Governor of the Colony. The municipal affairs of every municipality are to be administered by such number of commissioners not exceeding fifteen nor less than five as the Governor in Council shall determine, so that including the president (who must also be a commissioner) the number shall not be even. The majority of the commissioners so appointed in every municipality are to be ratepayers holding

[1] Nos. 21 and 22 of 1909. [2] 7 Ed. VII. c. 53, Part IV.
[3] See Federated Malay States Enactment No. 6, *infra*, p. 22.

no office of emolument under the Government or the municipality (ss. 6 and 13).

(2) The commissioners have the general powers of control conferred by the defunct Bill of 1911 upon the president. This end has been attained by the substitution of the words "the commissioners" for "the president" in the clauses which confer powers, except where under the old Ordinance of 1896 the power was conferred on the president.

(3) All meetings of the commissioners are to be open to the public, unless the commissioners in their discretion otherwise decide (s. 33).

(4) In the event of the commissioners omitting to fulfil a duty or to carry out a work which is, in his opinion, necessary, the Governor in Council is empowered to appoint a special officer to enquire and report the facts and make recommendations, and his report may be enforced by the Governor, if necessary, by a resolution of the Legislative Council, the cost of the work being payable out of the municipal fund, and, if necessary, rates and taxes may be levied within the maximum provided by the Ordinance, or a loan raised charged on the municipal fund (ss. 29 and 30).

(5) The municipality is to bear the cost of paving and metalling back-lanes where the land has been acquired by it by purchase, but, in the case of land not built upon, the owner has to give up without compensation the space required for a back-lane when he proposes to build, and also to pay the cost of paving and metalling (ss. 136–9).

(6) The municipal budget is to be drawn up by the president, and, after being laid before the commissioners to pass or modify its terms, it is to be submitted to the Governor in Council, who is empowered to reject any item (ss. 45 and 46).

(7) No special rate to be imposed on insured property, as was suggested in the Bill of 1911, for the maintenance of a fire brigade, but certain powers are given to the superintendent at a fire to prevent interference with the operations of the fire brigade (ss. 251–4).

Pensions.—Ordinance No. XVII. prohibits officers retired from the Colonial Civil Service from (except with the previous written sanction of the Governor) becoming directors or other officers of a local company. This was seemingly a measure occasioned by several cases of such colonial officers, particularly during the recent rubber-boom, retiring from the service and obtaining lucrative positions under rubber companies—events which gave occasion to some criticism. The Governor is now empowered in such cases to withhold payment of the pension, which may, however, on good cause shown and on proof that the officer's connection with the company has ceased, be restored, even with retrospective effect, by the Secretary of State for the Colonies.

Tobacco Revenue (Labuan).—Ordinance No. I. of 1913 repeals the Labuan Ordinance of 1897 on the same subject enacted when Labuan was independent of the Straits Settlements. It establishes for that Settle-

ment broadly the same system of collection of revenue on tobacco (by means of a Superintendent and his revenue officers, bonded warehouses and examination stations) as prevails in the rest of the Colony in virtue of Ordinances Nos. 21 and 22 of 1909 for revenue on opium and liquors: The duties chargeable on the various kinds of tobacco imported are specified in s. 4.

Traction Engines.—Ordinance No. II. of 1913 is designed to exempt from the operation of the principal Ordinance [1] principally agricultural and other similar traction machinery which make very little use of the roads.[2]

Incorporation of Chief Secretary to Government of the Federated Malay States.—The abolition of the office of Resident-General of those States and the institution of the office of Chief Secretary [3] rendered it necessary that the latter should be made (by Ordinance No. 4) a corporation for the purpose of conveying land for railway purposes, etc.

Copyright.—Ordinance No. III. repeals the old Indian Act XX. of 1847 rendered obsolete in virtue of the Imperial Copyright Act of 1911,[4] and the application thereof to the Colony by the Governor's Proclamation of July 1, 1912.

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—27.

Aerial Navigation.—Ordinance No. 22 empowers the Government, after the manner of the Statute of the United Kingdom of 1911,[5] to restrict the navigation of air-craft within certain areas and to prescribe conditions for air-craft coming from outside the States.[6]

Betting.—Ordinance No. 10 is practically a replica of Ordinance No. XVI. of 1912 (as amended by Ordinance No. V. of 1913, see *supra*, p. 16) of the neighbouring Colony of the Straits Settlements.

Civil Procedure Code.—Ordinance 17, amending the Code of 1902, provides for the reciprocal transfer of judgments between the Federated Malay States Courts and the Courts of the Straits Settlements, India, or other British possessions for execution.

Collision and Salvage.—Ordinance No. 2 enacts for the States the provisions of the Maritime Conventions Act, 1911,[7] of the United Kingdom.

[1] No. XIX. of 1911.

[2] Cf. English Locomotives on Highways Act, 1896, 59 & 60 Vict. c. 34, and the Locomotives Act, 1898, 61 & 62 Vict. c. 29.

[3] See Federated Malay States Enactment No. 1 of 1911.

[4] 1 & 2 Geo. V. c. 64.

[5] 1 & 2 Geo. V. c. 4.

[6] An analogous measure (Ordinance No. XX. of 1914) has been passed in the Straits Settlements in April 1914.

[7] 1 & 2 Geo. V. c. 57.

Food and Drugs.—Ordinance No. 9, like an analogous Ordinance passed in the Straits Settlements in April 1914,[1] deals for the first time in the history of these Malay States with this branch of the subject of public health. It embodies the provisions of the Food and Drugs Acts of the United Kingdom. "Food" is defined to "include every article used for human food or drink, or which enters into or is used in the composition or preparation of any such article, and also flavouring matters and condiments, but not drugs or water," and "drug" to "mean any substance or mixture of substances used as human medicine, whether internally or externally, and to include anæsthetics" (s. 2), tobacco, cigars, and cigarettes (s. 28). The enactment then (s. 3) provides for the appointment of analysts and other officers with powers (ss. 4 and 5) to inspect and seize any food or drug offered for sale, or to demand, select, and take samples thereof.

Any person may on payment of the prescribed fee have a sample analysed. The officer purchasing or procuring it for analysis must take it in triplicate (ss. 6 and 7). The Principal Civil Medical Officer of the States is empowered, at his discretion, to call upon persons in possession of any food or drug suspected of being sold contrary to the enactment to submit his books and documents for inspection, or to give other information connected therewith.

Ss. 10, 11, and 12 set out the offences against the Ordinance, which consist in selling

(1) adulterated food or drugs without informing the purchaser verbally or by writing affixed thereon of the true composition thereof;
(2) any food or drug in a package with a false description attached thereto;
(3) any food or drug containing substances prohibited by law;
(4) any food or drug containing a greater portion of any substance than is permitted by law;
(5) any food containing methylated alcohol.

The penalty for a first offence may amount to $500, and for a second offence to $2,000; and if the offence appears to have been wilfully committed, even a first offence may be punishable with $2,000 or three months' rigorous imprisonment. A penalty not exceeding $250 is also imposed upon persons who may destroy or otherwise interfere with fastenings or official marks placed on articles in pursuance of the enactment, and there is likewise a general penalty provided for offences not specifically described in the Ordinance (s. 12). Conviction may involve forfeiture of the food or drugs in question, and publication of the fact of such conviction in the local newspapers (ss. 13 and 14).

Ss. 15 to 18 lay down certain presumptions as to "adulteration," which is declared to include diminution of the nutritive or other beneficial properties of a substance by

[1] Ordinance No. XV. of 1914.

(*a*) mixture or dilution of other substances;
(*b*) extraction or omission of certain substances;
(*c*) mixing or dilution with substances of lower commercial value than such substances in their pure or normal condition;
(*d*) not complying otherwise with the standard prescribed by this enactment or by rules thereunder (s. 15).

The importer or manufacturer of any food in an unopened package which violates this enactment is liable to be punished in the same manner as the seller (s. 16); and the principal is liable for the acts of his agents or servants (s. 17). Further, there are (s. 18) presumptions, in default of evidence to the contrary, that the food or drug was sold for human consumption where

(1) such food or drug is sold or offered or exposed for sale;
(2) a sample thereof is taken in pursuance of this enactment for analysis;
(3) such food is a constituent of the article sold.

As to legal proceedings and evidence, it is provided that a plea of non-wilfulness shall not be a good defence (s. 20), but reliance by the seller or his agent or servant on a written warranty at the time of his purchase shall be a good defence provided he (1) took steps to ascertain and did in fact believe in the truth of the matters set forth in such warranty or statement, and (2) has within seven days of service of the summons upon him given the prosecutor written notice of such proposed defence.

The analyst's certificate is to be *primâ facie* evidence of the facts stated therein, but the Court may order independent analysis (ss. 22, 23).

The names of informers of offences are protected from disclosure.

Legal Tender.—Ordinance No. 21 makes the Straits Settlements dollar of 1907 of $\frac{9}{10}$ fineness the standard coin in the States, and prescribes that small silver coins shall be accepted for payment of amounts up to $2, and copper coins up to $1, and the large silver dollar and notes to any amount. Issue of local bank-notes is prohibited.

Military Law.—Ordinance No. 8 repeals and re-enacts Enactment No. 9 of 1910, does away (s. 18) with field courts-martial in the Force existing in virtue of that enactment, and provides (s. 19) that where an officer holding His Britannic Majesty's commission is convicted by court-martial under the enactment, a certified copy of the proceedings shall be forwarded to the Army Council in England or to the Commander-in-Chief in India, as the case may be, with comments.

Merchandise Marks.—Ordinance No. 6 is practically the same as the Straits Settlements Ordinance No. VI.[1]

Pensions.—Ordinance No. 18 is similar to Ordinance No. XVII. of the Straits Settlements.[2]

Places of Public Amusement.—No. 24 repeals the Billiards Enactment passed by the individual States in 1907, and prescribes that no place shall be

[1] See *supra*, p. 18. [2] See *supra*, p. 19.

opened for the public playing of billiards, bagatelle, or other similar game, or as a public shooting-gallery, etc., without a licence duly issued by the proper officer.

Public Officers' Guarantee (No. 11).—This embodies the provisions of the Straits Ordinance No. II. of 1911.[1]

Police Assistance and Criminal Jurisdiction.—No. 19 provides in a more efficient manner than ss. 1–13 of the Straits Settlements Offenders Enactment of 1904, which it supersedes, for the despatch and service, in case of need, of the States Police in the Straits Settlements, and *vice versa*. Further, the Government of the States is empowered to make orders providing for the arrest and trial in the States of Perak of offenders from the adjacent Settlement of Penang (Province Wellesley and the Dindings), and in the State of Negri Sembilan of offenders from the adjacent Settlement of Malacca; and for the purposes of the arrest, trial, and punishment of the prisoner, the offence is to be deemed to have been committed in the place where he can be legally tried.

Societies.—No. 20 repeals the enactments of the individual States of the year 1900 on the same subject, and deals therewith after the manner of Ordinance XX. of 1909 of the Colony.[2]

Volunteers (No. 1).—This re-enacts with amendments Enactment No. 15 of 1910. An "officer" of the Volunteer Corps is now defined to include all officers belonging to a force raised in the United Kingdom, India, or another Colony when attached to or doing duty with any portion of the Volunteer Forces of the Federated Malay States, and a "volunteer" to include all non-commissioned officers and men belonging to a force raised in the aforesaid places when attached to or otherwise acting with the Federated Malay States Volunteers.

The commandant is given power (s. 4) to appoint and promote non-commissioned officers. Hereafter, every Volunteer enrolled must engage to serve for at least two years, and to make good all losses which the corps may incur by reason of his quitting before the expiry of that period (ss. 5 and 6); and even after two years' service, a Volunteer on the effective muster shall not quit the corps within three months of the annual inspection on pain of a fine of $25 (s. 8). Part IV. (ss. 19–21) of the old enactment (enabling the members of the corps or any division thereof to make rules for the management of its finances, vesting the property thereof in the divisional commander) and other minor regulations as to the properties of the corps are omitted from the new enactment.

Minor enactments, amending or new, but mainly of local or technical interest, are those dealing with Agricultural Pests (No. 13); Electricity (No. 23): compare the Act of the United Kingdom of 1909[3]; Labour Code (Nos. 12 and 27); Lunatics' Reception (No. 25); Malay Reservations (No. 15); Machinery (No. 5); Railways (No. 14); Registration of Titles (No. 16); Wireless Telegraphy (No. 7).

[1] See Journal, vol. xiii. p. 341. [2] See Journal, vol. xi. p. 364. [3] 9 Ed. VII. c. 34.

5. MAURITIUS.

[*Contributed by* E. KOENIG, ESQ., *Procureur-General.*]

Co-operative Credit Societies.- Ordinance No. 4 gives a legal status to the co-operative credit societies which now exist in the Colony. It is based upon the Ceylon Co-operative Credit Societies Ordinance, No. 7 of 1911,[1] and the Indian Co-operative Societies Act, No. 11 of 1912.[2]

Patents.—Ordinance No. 7 amends the existing law relating to patents and makes provision for the registration of designs on the lines of the English Patents and Designs Act, 1905.

Trade Marks.—Ordinance No. 8 amends the existing law relating to trade marks on the lines of the English Trade Marks Act, 1905.

Opium.—Ordinance No. 9 renders effective the measures decided upon in the International Convention signed at the Hague on January 23, 1912, and regulates the importation into, exportation from, and the storage and disposal in the Colony of opium, morphine, cocaine, and similar drugs.

Wireless Telegraphy.—Ordinance No. 11 consolidates the laws on wireless telegraphy by providing for the framing and issue of special Regulations concerning the use of wireless telegraphy on board merchant ships while in the territorial waters of the Colony.

Crown Prosecutor.—Ordinance No. 12 abolishes the posts of Crown Prosecutors while maintaining the police under the direction and control of the Ministère Public, *i.e.* of the Procureur-General and of his two substitutes.

Explosives.—The Dangerous Substances Consolidating Ordinance (No. 17) consolidates the several laws on dangerous goods, petroleum, inflammable substances, and explosives.

Agricultural Loans.—The Agricultural Loan (Amendment) Ordinance (No. 18) enacts that privilege and mortgage creditors whose claims are inscribed, and chirograph creditors whose titles are subscribed, after the coming into force of the Ordinance shall be debarred of the right of objecting to the Agricultural loans provided for by Ordinance No. 4. of 1898 so long as in the contract with the lender, provision is made for the payment of interest and of such part of the capital as may fall due during the continuance of the contract.

Rodrigues.—The Court of Rodrigues Jurisdiction (Extension) Ordinance (No. 20) extends to Rodrigues Ordinances Nos. 21, 22 and 23 of 1888 dealing with the constitution, powers and jurisdiction of District Courts in criminal as well as in civil matters.

Lepers.—Ordinance No. 22 provides for the detention and treatment in asylums of convict, vagrant, pauper and other lepers in the Colony and for the notification of cases of leprosy and subjects to certain regulations the lepers who are unwilling to undergo treatment in an asylum.

[1] See Journal, vol. xiii. p. 334. [2] See Journal, vol. xiv. p. 70.

Quarantine.—Ordinance No. 26 consolidates and amends the existing legislation on quarantine. It substitutes fumigation and disinfection for the former detention of ships, it provides for the segregation or "surveillance" according to circumstances, of the passengers and crew during certain fixed periods. It does away with the Quarantine Committee and entrusts the Port Health Officer under the supervision of the Director of the Health Department with the execution of the Ordinance and of the Regulations made under it.

Public Health.—The Sanitation Works Ordinance (No. 15) empowers the Governor in Executive Council to order the execution of certain specified anti-malarial works and provides for the incidence of the cost of execution of such works.

The Public Health (Amendment) Ordinance (No. 31) makes the public health laws less rigid and complex and repeals all the provisions which are proper matter for regulations or for general or departmental orders. It also abolishes the Board of Health constituted under the Public Health Ordinance, 1894–95.

Public Officers' Guarantee Fund.—Ordinance No. 33 consolidates and amends the laws providing for the establishment of the Public Officers' Guarantee Fund.

Customs.—Ordinance No. 34 compels the owners or occupiers of bonded warehouses to enter into a general security bond and dispenses the importers using such warehouses with the obligation of entering into special security bonds.

Education.—Ordinance No. 35 replaces the Committees of Primary and of Superior Instruction by the Committee of Public Instruction which ceases to be an administrative and executive body and becomes a purely consultative and deliberative one; it further does away with the "A" and "B" Codes which are replaced by the Education Code.

Municipal Elections.—Ordinance No. 36 substitutes one of the magistrates of Port Louis, to be appointed by the Governor, for the Assessorial Committee which has hitherto been entrusted with the duty of revising the Electoral Roll and of conducting the Municipal elections. It also amends the provision dealing with the preparation of the list of six councillors from which the Governor appoints the mayor and the deputy mayor.

Supreme Court.—Ordinance No. 43 provides against any interruption in the despatch of business of the Court, in view of the reduction of the number of judges to three. It dispenses with the necessity of immediately appointing a provisional judge in the case of the death or of the temporary absence from the Colony on vacation leave of the Chief Judge or of one of the puisne judges.

Police.—Ordinance No. 47 amends the Police Ordinance, 1893, in respect of the enlistment and re-enlistments of, and of the oath to be taken by, members of the police force and gives to inspectors of police the right of issuing search warrants in cases of urgency.

Prisons.—Ordinance No. 48 amends Ordinance No. 8 of 1887 so as to subject the enlistment and re-enlistments of, and the oath to be taken by, warders to the same rules as those of the police force. It also modifies the articles dealing with prison offences.

Fisheries.—Ordinance No. 49 prohibits the use of nets for fishing in certain parts of the sea to be designated by Proclamation.

6. SEYCHELLES.

Ordinances passed—16.

Customs.—Five Ordinances are repealed and the whole law consolidated in No. 3, containing the tariffs on imports and exports.

Notaries.—A Board composed of the Chief Justice, the Legal Adviser, and a notary appointed by the Governor is constituted by No. 4 to supervise the admission of notaries in accordance with qualifications specified in the Ordinance.

Boiler Explosions.—No. 5 provides for the inspection of boilers and inquiries into accidents.

Licences.—A licence duty is imposed by No. 6 on cinematographs, merry-go-rounds, carriages, rickshaws, and a small tax on certain animals.

Whale Fishing.—No. 11 specifies the conditions upon which licences may be granted for whale fishing and the establishment of factories to deal with the carcases.

Motors.—No. 16 regulates, apparently for the first time, the use of motor cars.

7. WEI-HAI-WEI.

Ordinances passed—7.

The object of Ordinance No. 1 is the preservation of marriage according to Chinese laws and customs by enabling the husband to institute proceedings against any one committing adultery with his wife, and also imposing a penalty upon her. Ordinance No. 3 provides for the rehearing by the High Court in certain eventualities of cases tried before the magistrates. A steady diminution of wild game in the territory rendered necessary the passing of Ordinance No. 7 for its preservation.

IV. AUSTRALASIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* R. R. Garran, Esq., C.M.G.]

Acts passed—24.

The legislation for the session of 1913 is unusually scanty. Of the twenty-four Acts which appear in the Statute Book for the session, eleven are finance measures, and one, the Navigation Act, was passed in the previous session but received the King's assent in 1913. Three Acts effecting minor amendments in existing legislation were passed, viz. the Public Service Act, the Post and Telegraph Act, and the Commonwealth Inscribed Stock Act.

Finance.—The Tasmania Grant Act (No. 22) supplements the grant made to the State of Tasmania in 1912 to recoup that State for losses suffered through federation. The grant provided by the Act of 1913 is £400,000 payable by yearly instalments commencing at £5,000 in 1913–14 and ending in 1921–22 with a final instalment of £80,000. The joint effect of this Act and the Act of 1912 is, substantially, an annual payment to Tasmania of £90,000 for the period of ten years ending June 30, 1922.

The Commonwealth Inscribed Stock Act (No. 16) inserts a new section in the principal Act whereby the Treasurer is authorised to pay out of the Consolidated Revenue Fund sums adjudged to be payable by the Commonwealth in respect of stock by any Court of competent jurisdiction in the United Kingdom.

Public Service.—An amendment of the Commonwealth Public Service Act, 1902–1911, was effected by No. 17, which provides that officers in any branch of a State service shall be eligible for appointment to a corresponding position in the Commonwealth public service.

Navigation.—The Navigation Act, 1912 (No. 4 of 1913), which passed the Commonwealth Parliament in 1912, was reserved by the Governor-General for the King's assent. The Royal assent was proclaimed on October 24, 1913. The Act is to commence on a day to be fixed by proclamation.

Constitutional authority for the measure is to be found in ss. 51 (i.) and 98 of the Constitution Act.

Owing to the fact that the power of the Commonwealth Parliament in regard to navigation has been held by the High Court, in the case of *The Owners of the SS. Kalibia v. Wilson*,[1] to be limited to matters affecting external or inter-State trade or commerce, the application of the Act as regards coastal and river and bay ships is, by s. 2, limited to—

(*a*) ships engaged in external or inter-State commerce;

[1] 11 C.L.R. 689.

(*b*) ships on the high seas, or in waters used by ships engaged in external or inter-State commerce; and

(*c*) ships in the territorial waters of any territory being part of the Commonwealth.

To guard against the Act as a whole being held to be invalid on account of any possible overstepping of the limits of legislative power, s. 2 also contains a provision which is intended as a legislative declaration that any such excess shall be construed as being severable, and shall not affect the validity of the Act to the extent to which the legislative power goes.

The Act is based mainly on the Merchant Shipping Act, 1894, and other Acts of the United Kingdom. Attention is therefore only drawn to its special and distinctive features.

A Mercantile Marine Office is to be established in such ports as the Minister for Trade and Customs thinks fit, and a Superintendent is to be appointed for each office.

Qualification of Officers.—Officers employed on Australian registered vessels are required to hold certificates of competency, and no person will be admitted to an examination for a certificate who is not a British subject and who is unable to speak the English language.

A certificated officer who is proved incompetent, upon a Court of Marine Inquiry finding to that effect, is liable to lose his certificate until the incompetency is remedied.

A certificate recognised by the Board of Trade of the United Kingdom is to be regarded as sufficient for the purposes of the Act, and certificates issued by a State are to continue as valid for the purposes for which they were issued.

Qualification of Seamen.—A seaman is not permitted to engage in any capacity unless he possesses a certificate of discharge or a permit from the Superintendent to sign articles and, after twelve months from the commencement of the Act, unless he can row and handle a boat. Greasers and firemen are required to have six months' experience as firemen and trimmers respectively before being employed in the former capacity.

The Crew.—Division 7 of Part II. of the Act provides the number and description of the crew required to be carried, and the penalty incurred by the owner of a ship going to sea without the requisite crew. The crew of a foreign-going ship is not to be employed in handling cargo or ballast at a port in Australia unless there is a shortage of labour there. As to Australian trade ships the same provision may be made to apply by regulations made under the Act.

Wages of Seamen.—Advances of wages of seamen are prohibited under a penalty of £50, and any agreement as to engagement of seamen in Australia containing a stipulation as to an advance of wages is declared to be void. Wages are to be paid monthly on Australian trade or limited coast-trade ships, and on foreign-going ships registered in Australia wages are to be paid at times prescribed by regulation.

Regulations may be made under the Post and Telegraph Act, 1901, for the issue and payment of seamen's money orders.

S. 100 sets out a list of offences by seamen for each of which a penalty is provided. S. 102 makes it an offence by a master or officer to assault without lawful justification any person belonging to the ship.

Health Provisions.—Foreign-going ships, and Australian trade ships on voyages between consecutive ports of call exceeding a distance to be prescribed by regulation, which carry 100 persons on board, are required to carry a medical practitioner and to be provided with hospital accommodation suitable for use in the event of an outbreak of a communicable disease. If such a ship has more than ten and less than 100 persons on board a person qualified to render "first aid" must be carried.

Liberal provisions are made as to the scale of provisions and accommodation to be provided for both officers and seamen.

Inspection and Survey.—All ships are declared to be liable to inspection and survey, but exemption may be granted by the Governor-General as to a ship of another country which has complied with an effective law of that country as to survey and inspection. Steamships are to be surveyed at least once every twelve months, subject to a discretion on the part of the Minister to extend the time for resurvey. Steamships holding certificates of survey of the Board of Trade of the United Kingdom, or which carry not more than twelve passengers and hold classification certificates of any association approved by the Governor-General, are exempt from survey.

Safety Provisions.—Power is given to prescribe by regulation that steamships registered in Australia shall be fitted with water-tight partitions and double bottoms. Except as prescribed, ships carrying fifty or more souls are required, before going to sea, to be fitted with an efficient wireless telegraph apparatus in charge of a certificated operator. The master of any ship registered in Australia is required to exercise his crew in boat drill at prescribed intervals.

The Coasting Trade (Part VI.)—The Act contains provisions similar to those already existing in the United States and Canadian law on the subject of the coasting trade. Engaging in the coasting trade consists of taking passengers or cargo from a port in the Commonwealth to another port therein.

Any ship, whether British or foreign, which is receiving a bonus from any Government other than that of a part of the British Dominions is excluded from engaging in the coasting trade of Australia. The Governor-General has power under the Act to declare that the carriage of passengers by British ships between specified ports in Australia shall not be deemed engaging in the coasting trade. All ships engaged in the coasting trade are required to be licensed for that purpose. Seamen employed on ships engaged in the coasting trade must be paid the rates of wages for seamen employed in that part of the trade, and if the ship to which they belong trades beyond Australia also, they

must be paid the wages earned on the Australian coast before leaving Australia. No provision in any agreement is to debar a seaman in the coasting trade from claiming the rates of wages to which the Act entitles him. Awards of the Commonwealth Court of Conciliation and Arbitration are to be taken as *prima facie* evidence of the rates of wages existing.

Pilotage (Part VIII.)—Ports at which the employment of a pilot is compulsory may be proclaimed by the Governor-General, and at such ports the pilots are to be in the Commonwealth Public Service. Pilots licensed by the Minister may act at ports at which pilotage is not compulsory. The master of a vessel under the control of a pilot is not relieved from responsibility for the conduct and navigation of the ship. Neither the pilot nor the Commonwealth is to be held liable for any damage or loss occasioned through the neglect or want of skill of the pilot.

Earnings of vessels.—Returns are required to be made by the owner of any ship registered in Australia or engaged in the coasting trade, every year, of the gross earnings of his vessel (s. 421).

Exemptions.—The Act is declared not to apply to the ships of any navy, and the Governor-General is empowered to suspend, so far as is necessary, the operation of any provision of the Act if it appears that its enforcement against the ships of any country would conflict with the treaty obligations of the Commonwealth under a treaty between the United Kingdom and that country (ss. 3, 422). Fishing boats, pleasure yachts, missionary ships, and vessels not plying for hire may also be declared exempt from the provisions of the Act (s. 423).

Commerce.—Two Acts of the 1913 Session, viz. the Excise Tariff and the Sugar Bounty Act, were passed for the purpose of adjusting the termination of the bounty and excise duty on sugar brought about by the Sugar Bounty Abolition Act, 1912, and the Sugar Excise Repeal Act, 1912.[1]

Postal.—Provision has been made by the Post and Telegraph Act (No. 23) for the transmission at special rates of "letter telegrams," and power is given to the Governor-General to prescribe by regulation the conditions of their receipt, transmission, and delivery.

Norfolk Island.—The Norfolk Island Act (No. 15) provides for the acceptance of Norfolk Island as a territory under the control of the Commonwealth. The affairs of Norfolk Island, at the date of the passing of this Act, were administered by the Governor of the State of New South Wales.

The Act was proclaimed to come into operation on July 1, 1914. Acts passed by the Commonwealth Parliament are declared not to have effect in Norfolk Island unless expressed to extend thereto; and the existing legislation is to continue in the island until repealed by Ordinances made by the Governor-General—such Ordinances to be laid before both Houses of the Commonwealth Parliament, and to cease to have effect if disagreed with by either House.

[1] See Journal, vol. xiv. p. 100.

Judges and other public officers of the island are to continue in office as if appointed under the Norfolk Island Act and the Governor-General is empowered to appoint such officers as he thinks necessary. Grants of Crown land may be made by the Governor-General or under his authority. Jurisdiction is given to the High Court to hear appeals from the decision of any judge or magistrate in Norfolk Island, but such jurisdiction may be limited by Ordinance.

The Governor-General is empowered to make provision by Ordinance for the hearing by the High Court of appeals made by way of stated case.

Pardons may be granted by the Governor-General to accomplices or principal offenders in respect of offences committed in Norfolk Island and triable there, and he has also power to remit fines and penalties in whole or in part.

Provision is made for tariff preference to goods imported into Australia from Norfolk Island.

The manufacture, sale, or supply of alcoholic liquor in the island is made illegal except in so far as permitted by the law at present in force there.

Parliamentary Committees.—The Committee of Public Accounts Act (No. 19) provides for the appointment of a joint committee of both Houses of the Parliament to examine accounts of the receipts and expenditure of the Commonwealth. The Committee is to be constituted of three members of the Senate and six from the House of Representatives and is to hold office during the term of the Parliament from which it is appointed.

The Committee is required to report to Parliament any items in public accounts to which it thinks attention should be directed and any improvements it may suggest in the form of, or method of keeping, public accounts.

Any questions referred to it by either House of Parliament or any duties assigned to it by the Committee of Joint Standing Orders must be inquired into or dealt with by the Committee appointed under the Act.

The Committee has power to take evidence on oath or affirmation, or may consider evidence taken before a previous Committee which ceased to exist before the matter upon which the evidence was taken was reported upon.

Giving false evidence before the Committee is punishable by a penalty of five years' imprisonment.

By the Commonwealth Public Works Committee Act, 1913 (No. 20), provision is made for the appointment of a Committee constituted of three members of the Senate and six of the House of Representatives to consider and report upon public works undertaken by the Commonwealth after the close of the Session in which this Act was passed and which are estimated to cost more than £25,000.

The Governor-General in Council is empowered to exempt from the operation of the Act any specified works for naval or military defence purposes.

The reports of the Committee are to be made to the Governor-General before the commencement of each session of Parliament and laid before both Houses thereof.

A proposed public work which is one upon which the Committee should report may not be commenced unless first investigated by the Committee, which is to consider the stated purpose, necessity or advisability, and present or prospective public value of the work, and generally the expediency of carrying out the same.

The Committee has the power of constituting three or more of its members a Sectional Committee which may deal with any matter submitted to the Committee, and report to the whole Committee.

Provision is made for the summoning of witnesses, hearing of evidence, and punishment of offences by or in connection with witnesses.

Members of the Committee are to receive payment for their attendances.

The annual cost of the Committee is limited to £2,000.

Railway.—The Pine Creek to Katherine River Railway Act (No. 21) provides for the construction of a railway in the Northern Territory between the places named in the title to the Act.

The gauge of the railway is fixed at 3 ft. 6 in., but the permanent way is to be constructed wide enough to carry a gauge of 4 ft. 8½ in. should a subsequent alteration of gauge be found necessary. The survey of the route of the railway was authorised by Act No. 9 of 1912, but a discretion is given to the Minister to deviate from the surveyed route where desirable.

The provisions common to most railway construction Acts are to be found in this Act.

2. NEW SOUTH WALES.

Acts passed: Public—20; Private—4.

The legislation of the year was small in quantity and included only one big Act, namely No. 7, consolidating the whole law relating to Crown lands previously contained in sixteen statutes and portions of nineteen others.

Deserted Wives and Children.—Act No. 9 provides that the Comptroller-General of Prisons may direct any prisoner to perform any specified class of work of which the value is to be estimated in accordance with regulations. The prisoner's keep is to be a first charge upon his earnings. Then the balance may be expended as the Comptroller-General may direct for the support of his wife and children or payments under a bastardy order.

Housing Loans.—The Commissioners of Savings Banks are authorised by No. 13 to make advances for the erection of dwelling-houses for a man and his family, for the purchase of a house, or the discharge of a mortgage. The advance, which may be made in instalments, may not exceed £750, or three-fourths of the borrower's estimated interest in the holding. The

advance must be confined to the man's own residence; repayment may be extended over thirty years for brick, concrete, or stone buildings, or twenty years for wooden buildings.

Public Trustee.—No. 19 constitutes the office of Public Trustee upon the lines of New Zealand [1] and English [2] legislation.

3. QUEENSLAND.

Acts passed: Public—30; Private—1.[3]

Sugar.—Act No. 4 regulates the employment of labour in the production of sugar. It is provided that after the passing of the Act it shall be unlawful for any person who has not first obtained in the prescribed manner a certificate of having passed the dictation test to engage in or carry on the cultivation of sugar-cane upon any land within Queensland of which such person, whether individually or in partnership or association with others, is the occupier. Any such person who acts in contravention of this section shall be liable to a penalty not exceeding £100, and the crop of sugar-cane so being cultivated shall be liable to be forfeited to His Majesty by order of the Court before which the offence is proved. It is also provided that after the passing of the Act any employer who, either directly or indirectly, employs any person who has not first obtained a certificate of having passed the dictation test, or the person thus employed, becomes guilty of an offence, and is liable to penalties.

Any person who, at the passing of the Act, is the occupier of land which is planted with sugar-cane, or has been prepared for such planting, or has at any time within three years prior to the passing of this Act been so planted, and who within six months after the passing of this Act has attempted but failed to obtain a certificate of having passed the dictation test, may apply to the Land Court for compensation to be fixed by reason of the diminution to him in value of the land caused by the passing of this Act, and the Land Court shall assess and fix such diminution in value accordingly. In any such proceeding the claim shall be made against the Secretary for Agriculture as representing His Majesty. Upon any such claim being made by a claimant, the Secretary for Agriculture may request the Land Court to assess and affix the value of the said land or interest therein, and the Land Court shall assess and affix the said value accordingly. In such case the Secretary for Agriculture shall have the option either of paying to the claimant the amount of compensation so assessed and fixed, or of acquiring on behalf of the Crown the estate held by the claimant in the land, free from encumbrance, at the value so assessed and fixed, and the land when so

[1] 1908, No. 159.

[2] 6 Ed. VII. c. 55.

[3] Based upon the summary of legislation in the Report relating to the Self-Governing Dominions prepared in the Dominions Department of the Colonial Office [Cd. 7507].

acquired shall become Crown land. In other cases the Secretary for Agriculture shall pay to the claimant the amount of compensation so assessed and fixed by the Land Court.

The Governor in Council is authorised to make regulations for the examination and granting to persons certificates of having passed the dictation test, for the exemption from the operation of this Act of any person or classes of person whom for any reason it is considered unnecessary to examine, for the relief from the operation of the Act, wholly or in part, of persons being owners of crops of sugar-cane actually planted but not harvested at the passing of the Act, and for prescribing rates of payment and conditions of employment for aboriginal natives of Australia employed in the sugar industry, and the proportionate number of such natives who may be employed in the industry by any one employer.

It is provided that all proceedings for offences against the Act may be taken in a summary way, but that no proceedings for any offence shall be instituted except by the direction of the Attorney-General, Solicitor-General, or Minister of Justice.

This Act is supplemented by two other measures. Act No. 2 provides for the prompt payment to sugar-cane suppliers of a part of the value of the cane. Under the terms of this Act, immediately upon the delivery to the owner of a sugar mill of any sugar-cane which the owner has purchased or agreed to purchase from the supplier for the purpose of manufacturing into sugar, the supplier shall be entitled to receive from the owner such part of the price of the sugar-cane as is equal to a sum at a rate per ton for every ton of cane supplied, which varies with the district concerned from 8*s.* 2*d.* to 9*s.* 8*d.* a ton. In the event of delay in payment the cane supplier may take proceedings for the recovery of the amount. In the case of any contract for the supply of cane entered into before the passing of the Act, the sum so payable shall be added to the amount of the payment due under the contract, notwithstanding any agreement to the contrary.

Act No. 3 makes temporary provision with respect to the rates of wages and conditions of employment in the sugar industry until such matters have been dealt with by Wages Boards under the Industrial Peace Act of 1912. The Act lays down a schedule of wages. The minimum weekly rate for a week of forty-eight working hours for adults without keep is to be £2 8*s.*, with keep £1 16*s.*; youths from 16 to 18 years of age, with keep, £1 4*s.*; for those under 16 years, with keep, 16*s.*; and, where remuneration does not include keep, the value of the keep shall be estimated at 12*s.* per week. Overtime can be worked beyond the forty-eight hours, if the employee is willing, at the rate of 1*s.* per hour for able-bodied adults, 9*d.* for youths from 18 to 16, 6*d.* for those under 16, and 6*d.* for full-bred aboriginals; half-caste aboriginals shall be paid full wages for adult labour.

Companies.—Act No. 10 amends the Companies Acts in certain particulars. A company limited by shares if so authorised by its regulations may issue,

in respect of fully paid up shares, stock or share warrants to bearer, and may provide by coupon or otherwise for the payment of the future dividends. Shares or stock may then be transferred by delivery of the share warrant. On every share warrant issued a stamp duty is imposed. It is also provided that every company shall, within two months after the allotment of any of its shares or debenture stock, and within two months after registration of the transfer of any such shares, debentures, or debenture stock, complete, and have ready for delivery, the certificates of all shares, the debentures, and the certificate of all debenture stock allotted or transferred unless the conditions of the issue of the shares, debentures, or debenture stock provide otherwise.

It is also provided that a copy of every special and extraordinary resolution shall, within fifteen days of confirmation or passing, be printed and forwarded to the Registrar of Joint Stock Companies, who shall record it.

The Act is also amended by providing that in determining, in connection with a petition of winding up, whether the company is able to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

Finance.—Act No. 20 provides for the raising by way of loan of a sum not exceeding £11,728,800, as may be required for the retirement of the loans raised under the Acts of 1875, 1876, 1877, 1878, 1879, 1881, and 1882, which fall due on July 1, 1915. The amount may be raised by Government stock or inscribed stock at a rate not exceeding 4 per cent. per annum. All such sums must be repayable not later than July 1, 1965, and provision is made for the establishment of a sinking fund and for the investment thereof.

Closer Settlement.—Act No. 21 amends the Closer Settlement Act of 1906 by extending the terms of the lease from twenty-five to forty years and modifying the terms of repayment. An existing lessee may surrender his lease and obtain an extended lease, and relief is provided for selectors whose rent may be in arrear.

Criminal Appeal.—Act No. 23 amends the Criminal Code by establishing a Court of Criminal Appeal. The Act is based upon and follows closely the English Criminal Appeal Act of 1907, and also the Criminal Appeal Act of New South Wales.[1] Provision is, however, made that on an appeal against a conviction on indictment the Court may, either on its own motion or on the application of the appellant, order a new trial in such manner as it thinks fit, if it considers that a miscarriage of justice has occurred and that such miscarriage can be more adequately remedied by an order for a new trial than by any other order which the Court is empowered to make. It is expressly provided that nothing shall affect the pardoning power of the Governor.

Elections.—Act No. 29 makes important amendments in the Elections Acts, 1885–1908. S. 2 of the Legislative Assembly Act of 1867 is amended, and the qualification for membership of the Legislative Assembly

[1] No. 16 of 1912. See Journal, vol. xiv. p. 105.

is now defined as being the full age of twenty-one years and being an elector entitled to vote at the election of a member of the Legislative Assembly or qualified by becoming such an elector and one year's full residence in Queensland.

Detailed amendments of the Elections Acts are made to secure more complete carrying out of the conditions as to continuous residence in the State, and the better keeping of the electoral rolls. It is expressly required that persons desiring to vote shall be asked whether they are of the full age of twenty-one years, and, if required, a person claiming the vote must make a solemn declaration that he is of age.

Provision is made for the giving of a contingent vote if desired by the elector. Provision is also made for voting by post, which is permitted only in the case of an elector residing within the electoral district and at least five miles by railway or by the nearest practicable road from the nearest polling-place appointed for the district for which such elector is enrolled; or who, by reason of age, infirmity, or ill-health, will be unable on polling-day to attend at a polling-place to vote; or who believes that on polling-day he will be absent from the electoral district for which he is enrolled, and will not be within a distance of five miles by railway or by the nearest practicable road from any polling-place appointed for such district. The existing provisions as regards absent voting which were contained in the Act of 1908 are repealed. New provision is made for election petitions, to have effect after the end of the session of Parliament of 1913. An Elections Tribunal is created, consisting of a judge of the Supreme Court, with power to inquire into and determine election petitions; all questions which may be referred to it by the Assembly respecting the validity of any election or return of any member to serve in the Assembly, whether the question relating to such election or return arises out of an error in the return of the returning officer, or out of his failure to make a return, or out of an allegation of bribery or corruption against any person concerned in the election, or out of any other allegation calculated to affect the validity of such election or return, and concerning the qualification or disqualification of any person who has been returned as a member of the Assembly. The trial of the petition or reference shall take place before the judge sitting alone, who shall have power to determine all questions of fact and law. The Chief Justice shall, in January of each year, notify to the Speaker the name of one of the judges of the Supreme Court of Brisbane and one of the judges of the District Court who shall be the election petition judges for the year. Provision is made for the proceedings on a petition, and the judge is expressly required to be guided by the real justice and good conscience of the case without regard to legal forms and solemnities, and he shall guide himself by the best evidence which he can procure. An appeal shall lie to the full Court upon every decision of the judge upon a question of law, and the judge is required to report as to corrupt practices,

Miscellaneous.—Of the other Acts, Act No. 7 consolidates and amends the laws relating to the incursion and migration of rabbits; Act No. 12 amends the Pearl Shell and Bêche-de-Mer Fisheries Act; Act No. 13 consolidates and amends the law relating to friendly societies; Act No. 14 amends the law relating to miners' homestead leases; Act No. 16 regulates the process of cremation; Act No. 24 amends the Local Authorities Act; and Act No. 30 regulates the sale of seeds.

4. SOUTH AUSTRALIA.[1]

[*Contributed by* A. BUCHANAN, ESQ.]

Acts passed—39.

Constitution.—The Constitution Further Amendment Act (No. 1148) increases as from the next general election the number of members of the Legislative Council from eighteen to twenty (s. 7) and of the members of the House of Assembly from forty to forty-six (s. 8), and makes consequential alterations in the electoral districts for each House (ss. 9 and 10), other adjustments (ss. 12-15), and provides for new rolls (s. 16). The franchise for the Legislative Council is extended to any person who is an inhabitant occupier, as owner or tenant, of any dwelling-house (s. 17). Money Bills and money clauses shall originate only in the House of Assembly (s. 23). The Legislative Council may not amend money clauses, but may suggest amendments (s. 24). An ordinary Appropriation Bill is not to appropriate for purposes not previously authorised (s. 25), and except as thus provided in Part IV. the powers of the two Houses in respect of Money Bills are to be equal (s. 26).

Lunacy.—The Mental Defectives Act (No. 1122) repeals the Lunatics Acts of 1864 and 1868 and consolidates and amends the law upon the subject. Part II. provides for a Mental Defectives Board to be appointed by the Governor, to consist of an Inspector-General, who must be a medical practitioner (s. 17) and is to be chairman, and two other members (s. 6), who are to have the control and supervision (s. 15) of institutions proclaimed as mental hospitals and receiving-houses under the Act (s. 23), and report annually to the Minister (s. 16). The Inspector-General is to visit and inspect institutions and perform the other duties imposed upon him by the Act (s. 20) and report annually to the Minister (s. 21), by whom such reports shall be laid before Parliament. A medical superintendent may be appointed for each mental hospital or receiving-house by the Governor on the recommendation of the board (s. 24), and all other necessary medical and other officers and servants are to be appointed and dismissed by the board with the approval of the governor or of the Minister as the case

[1] The legislation of the year 1913, being the third Session of the twenty-first Parliament.

may require (s. 25). The board of management of any public hospital may set aside a ward which may be proclaimed by the Governor a receiving ward for the temporary reception of mental defectives (s. 26). The Governor may proclaim any mental hospital or any part of any prison or any other place to be a hospital under the Act for criminal mental defectives (s. 27), and appoint a medical superintendent therefor (s. 28). Three or more official visitors, to include one male and one female medical practitioner and one special magistrate, may be appointed by the Governor for each institution (except receiving-wards) for one year, any visitor who has paid twelve official visits during the term being eligible for reappointment for a further term (s. 32). Official visitors are not competent to hold inquests on patients (s. 33).

Part III. deals with the reception and detention of patients. A believed mental defective without sufficient means of support, or wandering at large, or found under circumstances that denote a purpose of committing some offence, may be ordered into a mental hospital by a single justice upon examination assisted by a medical practitioner (ss. 35-37). Any other believed mental defective not under proper care and control, or cruelly treated or neglected, may in like manner be ordered into a mental hospital by two justices (ss. 38-40). A person found a mental defective by inquisition or other proceeding in the Court may be received and detained in a mental hospital on the request of the committee appointed by the Court (s. 41). A person may be received and detained in a mental hospital on the request in writing of any person, accompanied by a statement in writing by such person and the certificates of two unassociated and unrelated medical practitioners, or in cases of emergency one medical certificate, provided that it be supplemented by a second medical certificate within three days (s. 42). In cases in which the mental deficiency, although apparent, is not sufficiently marked, the justice or justices may limit the order for detention to seven days (s. 43), within which time he is to be further examined with the assistance of a medical practitioner by a justice, who may make such an order as the case shall require, save that in the continued absence of sufficiently marked symptoms the aggregate period of detention at any one time shall not exceed two months (s. 44). On the certificate or recommendation of a medical practitioner a person may be received into and detained in a receiving-house or receiving-ward, on a request signed by the patient himself or some other person (s. 46). A person under treatment in a public hospital in which there is a receiving-ward may be removed into and detained in such ward on the order of the medical superintendent of such hospital (s. 47). Any person received into an institution under s. 46 or s. 47 shall be received as a patient for observation and treatment for one month, unless sooner discharged or transferred to a mental hospital (s. 48 [1]), but may be detained for a second month on the certificate of the Inspector-General (s. 48 [2]). The superintendent, if of opinion on examination that the patient is not men-

tally defective, or though mentally defective does not require treatment, shall enter such opinion in the Case Book, whereupon such person shall be discharged; but if of opinion that the patient is mentally defective and requires treatment, shall order the transfer of the patient to a specified mental hospital (s. 48 [4]). Provision is made for hospitals for criminal mental defectives, to which prisoners, if mentally defective, may be removed (s. 57) and detained until certified by the Inspector-General alone, or by the medical superintendent and another medical practitioner, to be not mentally defective (s. 59 [1]), whereupon he shall be returned to prison to be dealt with according to law (s. 59 [3]), unless his sentence has expired, in which case he shall be discharged (s. 59 [2]). Any person detained in a mental hospital who has at any time previously been detained in a hospital for criminal mental defectives, and is certified by the Inspector-General or superintendent to be dangerous or violent, may be transferred to a hospital for criminal mental defectives (s. 62). The Governor may permit any person confined in a hospital for criminal mental defectives to be absent therefrom on trial leave for such period and on such conditions as he thinks fit (s. 64), and if the criminal mental defective breaks his trial leave (s. 64 [2]) or escapes, he may be re-taken (s. 65). Any person who abets the escape of a criminal mental defective, or being a superintendent or other officer or servant employed in the institution by wilful neglect or connivance permits such escape, shall be guilty of felony, and liable to imprisonment for not exceeding three years (s. 66 [1]), and any superintendent, officer, or servant who carelessly allows a criminal mental defective to escape shall be guilty of a misdemeanour (66 [2]).

Part IV. provides for the treatment, inspection, and discharge of patients; for the keeping of Registers (s. 67) and Case Books (s. 68); and the giving of notices of reception, discharge, removal, escape, re-capture (s. 70), and death (s. 71). The Inspector-General and official visitors are to visit and inspect every institution once at least in every three months without notice, and as far as practicable see every patient (s. 74) and inquire as to the health, welfare, and comfort of the patients (s. 75), with power to summon and examine witnesses on oath (s. 76), and to examine the books and records of the institution (s. 77). Any judge or the Minister may direct special visitation of any detained person (s. 80). The Inspector-General may give orders of admission to see any patient (s. 81). Letters written by patients are to be forwarded, or else laid before the Inspector-General or a visitor on his next visit, who may if he thinks fit direct the same to be forwarded (s. 82). Every patient during detention shall be examined at least six times in every year during the first three years, and subsequently at least once in every year by the superintendent as to his mental soundness or defect and general health, and the result certified to the Inspector-General (s. 83). The Inspector-General may order the transfer

of patients from one institution to another (s. 84) unless unfit for removal (s. 85). The superintendent, with the consent of the Inspector-General, may send a patient to any place for his health or on trial leave (s. 86), which leave may be cancelled at any time (s. 87). If a patient does not return upon the cancellation or expiration of his leave he may be recaptured within three months, or if not so recaptured, shall be deemed to have been discharged as unrecovered, but shall continue liable for such period as the Inspector-General shall see fit to visitation and inspection (s. 88). Patients may be taken out of the State by the authority of the Minister (s. 89). Cottages or other separate accommodation may be provided for special paying patients (Div. IV.), and harmless patients may be boarded out in accordance with regulations (Div. V.). The discharge of patients is provided for in Div. VI. A patient may, with the consent of the Inspector-General, be discharged on the written request of the same person on whose receipt he was received, or if such person be dead or incapable, then on the request of the person who, within the next preceding six months, made the last payment on behalf of the patient, or the husband, wife, father, mother, or one of the nearest next of kin of the patient in the order named (s. 99). A patient absent on trial leave or parole may be discharged by the superintendent on the certificate of a medical practitioner that such patient should no longer be treated as mentally defective (s. 100). The Inspector-General may order the discharge of a patient on his own authority (s. 101), or on the certificate of any official visitor or of the superintendent that such patient is detained without sufficient cause (s. 102), but dangerous and sick patients are not to be discharged under the foregoing provisions (s. 103). Patients may be discharged by the Inspector-General on the undertaking of a relative or friend to assume proper care and control of the patient (s. 104). A judge may order the discharge of a patient no longer mentally defective (s. 105), but the provisions of this Division are not to apply to persons found lunatic or mentally defective by inquisition, or under any inquiry directed by a judge, or to criminal mental defectives subject to be continued in custody (s. 106).

Part V. provides for the administration of the estates of mentally defective persons. Notice of all reception orders, discharges, and deaths are to be sent to the Public Trustee (s. 107), who shall have the control and administration of the estate of every patient except those estates of which a committee or administrator has been appointed under this Act or any Act repealed hereby and those vested in curators under the Treason and Felony Forfeiture Act, 1874 (s. 108 [1]). The functions of the Public Trustee under this section shall cease on notice of the death of the patient or on the appointment of a committee of his estate, or when his estate vests in a curator under the Treason and Felony Forfeiture Act, 1874, or when he is discharged and it appears from the notice of discharge that he is able to manage his own affairs (s. 108 [2]). The Court may without inquisition appoint the Public Trustee (s. 109) or, on sufficient reason being shown (s. 128), some other

person as committee of the estate of any patient (s. 109 [1]). The Court may order an inquisition to be held by a judge or special magistrate as to whether a person alleged to be mentally defective, either in or out of the State, is mentally defective and incapable of managing his affairs (s. 110 [1]) on notice (s. 110 [2]), but without a jury (s. 110 [4]), and if within the State on personal examination (s. 110 [5]), a special magistrate having for the purposes of such inquisition all the powers of a judge (s. 110 [6]), but unless otherwise directed by the judge or magistrate, the evidence as to state of mind shall not extend more than two years before the presentation of the petition for an inquisition (s. 111). The judge or magistrate shall certify his finding to the Court, and if the person is found mentally defective and incapable of managing his affairs he shall be deemed to be a person found lunatic on inquisition within the meaning of any Act or law relating to such lunatics (s. 112), and the Court may appoint the Public Trustee, or on sufficient grounds some other person, to be committee of his estate (s. 113). A committee may be appointed without inquisition when the estate is not over £1,000 or the income does not exceed £50 (s. 114). In cases in which it is specially found and certified that a person is incapable of managing his affairs but does not require oversight or control with respect to himself, a judge may order the commitment of the estate only (s. 116). A like inquisition may be ordered as to the continuance of mental defect, and on a certificate that the person is no longer incapable of managing his affairs or on a like finding by a judge without an inquisition the order appointing a committee of the estate may be rescinded (s. 117). The Court may appoint a committee of the estate for a person outside the State who is detained as or has been found on inquisition to be a lunatic or mental defective (s. 118). The Court may order the costs of and consequent upon a petition for an inquisition and of the appointment of a committee to be paid by the petitioner or by any person opposing the petition or out of the estate of the patient (s. 119). Upon the Public Trustee being authorised under the Act or being appointed as committee the estate shall not vest in him (s. 120), but he may take possession and exercise full powers of management and disposal (s. 121) except that where the net estate exceeds £500 (s. 124) the order of the Court must be obtained for the sale of freehold and leasehold estate or for exchange or partition or for leasing for a term exceeding two years or for the execution of beneficial powers or for carrying on a business or for the expenditure of money for the benefit of relatives and dependants (s. 122) or to mortgage for certain specified purposes (s. 123). The Public Trustee may obtain information on oath (s. 127). If a person other than the Public Trustee be appointed committee he shall give security to the Public Trustee (s. 129) and render his accounts to the Public Trustee (s. 131). Division IV. contains amongst other general provisions power to a committee to apply to the Court for advice and direction (s. 132), to exercise with the sanction of the Court powers vested in the mental defective (s. 134) and to

execute assurances (s. 135). The Public Trustee and any other committee are in all things subject to the order of the Court (s. 136). The contractual powers of a person whose estate is being administered under the Act is limited to contracts for necessaries (s. 137). The provisions for the administration of the estates of mental defectives are extended to the estates of persons who, owing to their mental condition, require oversight or control for their own good or in the public interest or who, though capable of earning a living under favourable circumstances, are incapable from mental deficiency existing from birth or from an early age from competing on even terms with their normal fellows or of managing themselves or their affairs with ordinary prudence (s. 143).

Part VI. relates to offences under the Act, and Part VII. miscellaneous provisions.

Criminal Procedure.—The Justices Procedure (Indictable Offences) Amendment Act (No. 1133) provides that a justice may commit for sentence only if the accused plead guilty (s. 4), but such plea may be withdrawn on written notice to the Attorney-General seven clear days before the day of the first sitting of the Court to which the accused shall have been committed for sentence, and in such case the presiding judge may postpone the trial (s. 9). Upon the appearance of a person committed for sentence who has not withdrawn his plea of guilty, the Court shall deal with him as if he had pleaded guilty on arraignment, but if the presiding judge considers the plea of guilty should be withdrawn he may so advise, and if the plea be withdrawn the accused may be thereupon arraigned without information and the case proceed in the usual course either immediately or after adjournment (s. 10).

The Minor Offences Procedure Act Amendment Act (No. 1127) extends the jurisdiction of special magistrates under the principal Act in cases of larceny, embezzlement, and false pretences in respect of goods from a value of £5 to a value of £50 (s. 3), including larcenies from ships (s. 4), and enables justices other than special magistrates to remand charges for hearing before a special magistrate (s. 6).

Inebriates.—The Convicted Inebriates Act (No. 1120) provides that upon the conviction before a special magistrate or two or more justices of any person of an offence of which drunkenness is a necessary ingredient, such person may, if he shall have been convicted of the like offences at least three times within the preceding twelve months, be declared an inebriate (s. 4) and detained during His Majesty's pleasure (s. 6) in some institution proclaimed by the Governor for the detention and care of inebriates (s. 3), where he shall work at some trade or avocation and be allowed such facilities as are practicable for disposing of the products of his labour (s. 8), of the proceeds of which he shall receive not less than one-half (s. 8 [2]). The expenses of the detention, care, and treatment of an inebriate may be ordered by a special magistrate or justices to be wholly or in part paid by the inebriate or out of his property (s. 7). The Governor may release an inebriate on licence (s. 8 [1])

for a period not exceeding twelve months upon the conditions of good behaviour and abstinence from intoxicating liquor or drugs and such other conditions as may be imposed (s. 8 [2]), which licence may be revoked by the Governor at his discretion or on proof of any breach of conditions (s. 8 [3]), and the licensee arrested and returned to an institution (s. 8 [4]). An inebriate unconditionally released by the Governor or whose licence remains in force for twelve months shall cease to be an inebriate within the meaning of the Act, but if convicted of a like offence within twelve months thereafter may be again declared an inebriate (s. 10). Female inebriates are to be segregated from male inebriates (s. 11). Alcoholic liquors and intoxicating drugs are prohibited in institutions for inebriates, and any person introducing them is liable to a penalty of not more than £100 (s. 12). Every institution proclaimed and every other place where an inebriate is detained under the Act is with respect to such inebriate declared to be a prison within the meaning of the Prison Act, 1869 (s. 13).

Probation of Offenders.—The Offenders' Probation Act (No. 1121) repeals the Offenders' Probation Act of 1887, and practically adopts the provisions of the United Kingdom Act.[1]

Police.—The Police Act Further Amendment Act (No. 1117) empowers the Commissioner of Police to issue general search warrants to such members of the police force as he sees fit (s. 3 [1]) to remain in force for not exceeding six months (s. 3 [3]), under which the officer named therein may by day or night with such assistants as he thinks necessary break and enter into and search any house or place where he has reasonable cause to suspect stolen goods to be (s. 3 [4]). The penalties for assaults on policemen (s. 4), for fighting, riotous and indecent conduct (s. 5), and in relation to the possession of stolen property (ss. 7 and 8), and some other offences (s. 6) are considerably increased.

Jury.—The Jury Act Further Amendment Act (No. 1115) lays down rules for ascertaining the qualification and liability to serve as jurymen of men resident within any municipality in which Part II. of the Land Value Assessment Act, 1893, is in operation, and in effect provides that a man shall be deemed to be assessed at an annual value of one-third of the amount of the capital land value at which he is in fact assessed (s. 3), and the jury lists are to be made out accordingly (s. 4).

Statutory Declarations.—The Declarations and Attestations Act (No. 1114) empowers the Governor to appoint by proclamation such postmasters, bank managers, and members of the police force as he shall deem fit to take statutory declarations and to make statutory attestation of the execution of documents. This is a measure calculated to conduce greatly to the convenience of residents of outlying districts of the State, who heretofore upon visiting their nearest centre to make a statutory declaration or execute an instrument which required statutory attestation have not infrequently found

[1] 7 Ed. VII. c. 17.

the local justice of the peace absent, whereas it will be seldom that the services of one or other of the above-named officials will not be available.

Vermin.—The Vermin Act Further Amendment Act (No. 1135) makes a number of working amendments in the principal Acts. Owners and occupiers of land adjoining any breakwind reserve within the Pinaroo Railway District are required at their own cost to destroy all vermin in such reserve and on the half width of any adjoining road (s. 15) upon notice (s. 16), and in default will be liable to penalties (s. 17).

Oysters.—The Oyster Fishery Act Amendment Act (No. 1128) provides for the registration, marking, and licensing of vessels used for oyster fishing (s. 7), the granting of leases of Crown lands (which term includes the foreshore as well as land under the sea within the territorial limits of the State) for terms not exceeding fifteen years for oyster culture (s. 9–10) subject to cancellation for mismanagement (s. 20) or to be closed against dredging if over-dredged (s. 21). Public oyster reserves may be proclaimed (s. 23). Any inspector may enter premises or vessels and seize unmarketable oysters (s. 26).

Immigration.—The Immigration Act Amendment Act (No. 1134) empowers the Minister to apprentice boys under nineteen years of age who come to the State with Government assistance in suitable trades and callings, including farming, under written agreements until they attain twenty-one years of age (s. 4). Such agreements are to be binding, notwithstanding infancy (s. 6), and may contain provisions for the payment of all or part of the apprentice's wages to the Minister (s. 7), to be applied with interest at 4 per cent. (1) towards repayment of moneys expended for his benefit by the State, (2) or by any other person towards his passage money, (3) or for his benefit, at the discretion of the Minister, and the balance (if any) paid to him on attaining twenty-one (s. 8). The Minister may establish institutions for the reception, detention, education, and employment of boys whilst not placed out (s. 5).

Brands.—The Brands Act (No. 1132) consolidates and amends the law relating to the branding of live-stock. Part II. provides for the appointment of inspectors and registrars. Part III. provides as regards horses and cattle for the registration of brands, distinctive brands by the same owner, and special brands for horses for export. Part IV. provides as regards sheep for brand districts (Div. I.), registered brands (Div. II.), and distinctive brands and ear-marks (Div. III.). Part V. provides for a distinguishing brand to be used by each public pound on horses and cattle sold out of pound and a general pound brand to be used on sheep so sold. Part VI. relates to the transfer and cancellation of brands. Part VII. to the keeping of brand registers and the publication once in every two years of directories of horse and cattle brands and sheep brands respectively. No ear-mark is to be made on cattle or sheep except with pliers, nor is any ear-mark to be made by means of a crop (s. 51). Cattle found by a stock inspector to be

infected with a contagious disease may be firebranded with an official mark (s. 52).

Bush Fires.—The Bush Fires Act (No. 1123) repeals the Bush Fires Act, 1885, and makes better provision for the prevention of bush and other fires. Between October 15 and February 1 the burning of scrub is absolutely prohibited (s. 8), and the burning of stubble is prohibited except for fire-breaks under specified conditions (s. 6). The conditions are set out under which stubble may be burned during the remainder of the year (s. 7) and under which scrub may be burned between the end of January and May 1 (s. 9). Additional notices have to be given in the case of Crown lands (s. 10). Fires for charcoal burning are prohibited between October 31 and May 1, unless in a space cleared to the width of 50 feet in all directions or in an enclosed kiln (s. 11). The owner of the land is *prima facie* liable, as well as the actual perpetrator of the offence (s. 12). Local government bodies may alter the periods and hours for burning (s. 13), but no stubble, scrub, or charcoal fire shall be lighted on a Sunday (s. 14). Between October and May other open-air fires may be lighted only on cleared spaces, and must be completely extinguished before being left (s. 15). The use of ignitable wadding in firearms is prohibited between September and May, and landowners may examine the guns of persons on their land (s. 16). Between October and May smoking in the open air in the vicinity of stables or stacks is prohibited, unless within a town or with a pipe properly covered (s. 17), and the blasting of trees (s. 18). The Governor may by proclamation prohibit the placing in the ground of certain proclaimed substances (s. 19) and the use of certain kinds of matches during certain periods of the year (s. 20). Damage by fire to a dividing fence caused by the neglect of the owner or occupier of land is to be made good by him (s. 22). Local government bodies may expend rates for the prevention of fires (s. 23) and may take measures to control or extinguish unlawful, accidental, or uncontrolled fires (s. 24).

Impounding.—The Impounding Act Amendment Act (No. 1119) exempts full-bred angora goats from the provisions in the principal Act for the destruction of goats (s. 4).

Boiler Attendants.—The Steam Boilers and Engine Drivers Act Amendment Act (No. 1131) extends the provisions of the principal Act for the examination of and issue of certificates to engine drivers to boiler attendants, and provides that no boiler shall at any time be left in charge or under the control of a person under twenty-one years of age.

Roads and Bridges.—The Roads Supervision and Works Act (No. 1141) provides that all future grants by Parliament to local government bodies for main roads shall be expended by the Engineer for Roads and Bridges under the authority of the Minister (s. 14), who may also instruct the Engineer to inspect, repair, and reconstruct any public road or bridge (s. 6). The Engineer is to advise the Minister as to the proportions in which

money voted by Parliament should be allotted to the local bodies and supervise the expenditure thereof (s. 7). The Engineer, when directed by the Minister, is also to advise any local body as to the reconstruction and repairing of roads or bridges (s. 9).

Fire Brigades.—The Fire Brigades Act (No. 1130) repeals the Fire Brigades Acts, 1904 to 1910 (s. 4), but continues the Board thereunder and its duties and powers (Part II.). The Board may establish salvage corps (s. 33) and shall assist without charge salvage corps established by insurance companies (s. 34). Volunteer fire brigades may be formed (s. 36), and when present at a fire shall be under the control of the chief officer (s. 37), upon whose certificate they may be paid by the Board for efficient or valuable services (s. 38). Officers, their appointment, duties, and powers are provided for (Part V.). The Board is to make a yearly estimate of its probable necessary expenditure, to be approved by the Governor (s. 53), and the amount thereof shall be contributed and paid three-ninths by the Treasurer of the State, four-ninths by the insurance companies, and two-ninths by the local authorities within the fire district concerned (s. 54), which may be raised by rates (s. 56). If a fire brigade or salvage corps maintained by the Board proceeds beyond the limits of the fire district for the purpose of extinguishing fire, the owner of the property shall be liable for the expenses and charges of the brigade or corps, and may recover a *pro rata* proportion from the occupier in respect of his goods and chattels (s. 51). The Board may permit a brigade to be employed on special service for an agreed remuneration (s. 61).

Public Entertainments.—The Places of Public Entertainment Act (No. 1124) applies to the metropolitan area, but may be extended to other parts of the State by proclamation (s. 4), provides for the licensing of places of public entertainment for specified numbers of persons (s. 6–12) under regulations prescribing situation, construction, means of exit, safeguards against fire, and other particulars (s. 14). Persons desiring to erect places of public entertainment may submit plans to the Minister, and if approved a licence shall not be refused on the ground that the site or building is not suitable (s. 13). Regulations may be made to ensure safety and convenience (s. 17) and inspectors appointed (s. 26). Public entertainments may not be held in unlicensed premises (s. 18), nor may unlicensed premises be let for the purpose (s. 19). Entertainments may not be held on Sundays (s. 20), Christmas Day, or Good Friday (s. 21), except with the consent of the Minister. Overcrowding (s. 22), selling tickets after the number stated in the licence have been admitted (s. 23), or allowing persons to sit or stand in the public gangways are made offences (s. 24). The Minister may in the interest of decorum or safety prohibit any entertainment wholly or in part notwithstanding the licence (s. 25).

Murray Waters.—The Lake Victoria Agreement Act (No. 1118) ratifies and extends an agreement entered into between the Premiers of the States

of New South Wales, Victoria, and South Australia under which South Australia is to be empowered and authorised to construct and maintain certain works in the territory of New South Wales and Victoria for the storage of water in Lake Victoria in New South Wales with the object of utilising the waters of the River Murray for navigation, irrigation, and other purposes. The Act is not to be brought into force until similar ratifying Acts have been passed by the Parliaments of New South Wales and Victoria, but as neither Government has proposed such legislation the South Australian Act remains a dead letter.

5. TASMANIA.

[*Contributed by* F. B. Edwards, Esq., LL.B. (Tas.), B.A. (Oxon).]

Acts passed—59.

Aliens.—Hitherto alien enemies were incapable of holding real or personal property in Tasmania, and the right of an alien being the subject of a friendly State to hold lands in Tasmania was limited to "lands, houses, or other tenements for the purpose of residence or occupation by him or her, or his or her servants, for the purpose of any business, trade, or manufacture, for any term of years not exceeding twenty-one years."

The new Act (No. 12) brings the law into line with the law of the United Kingdom, and reproduces ss. 2 and 5 of the Naturalisation Act, 1870.

Auction.—No. 37 is an Act to consolidate and amend the law relating to sales by auction and auctioneers, and is largely based on the New Zealand Auction Act. Owing to local conditions it sets up two kinds of auctioneers' licences, viz. (1) a general licence operative throughout the State; and (2) a limited licence operative only outside a five-mile radius of the two cities in the State.

A useful provision is that all licences expire at the end of the year in which they are issued. The licence fee is fixed for a general licence at £50 and for a limited licence at £20.

In the case of a company, partnership, or firm, the application for a licence must be in the name of the company, partnership, or firm, and in any case there must be stated in the application the name and address of one person only (who may be the applicant or one of them, or some other person) who it is intended will conduct the sales by auction under the licence on behalf of the applicant. The name of the licensed seller or auctioneer is endorsed on the licence, and may be changed on the application of the owner of the licence, and only the person whose name is so endorsed may sell under the licence. The licence belongs to the applicant, and not to the licensed seller.

The Act makes provision for the sale of a licence by its owner, or the personal representatives of a deceased sole owner or the trustee of a bankrupt

owner, and also provides for the carrying on of the business by such personal representatives or trustee desiring so to do. The conditions under which a transferee may hold are similar to those under which the licence was originally granted.

Sales by auction after 6 p.m. are prohibited, except in specified circumstances in the case of sales of cattle or of land.

S. 18 of the Act authorises a magistrate or justices convicting the owner of a licence or auctioneer entitled to sell thereunder of an offence against the Act to cancel the licence or endorsement as the case may be.

Closer Settlement.—No. 39 is a consolidation of the Closer Settlement Law, together with certain minor alterations. The most important addition is to the effect that if an owner, at the request of three or more persons desirous of obtaining leases under the Act of any land belonging to that owner, offers to sell the land to the Crown, and a scheme of subdivision agreed upon between such persons and the Closer Settlement Board is submitted, then in the event of the land being acquired by the Crown, competition for the allotments shall be dispensed with, and the land may be disposed of according to the submitted scheme of subdivision.

Coroners.—No. 38 also is a consolidating and amending measure, and has elicited high praise from an Australian authority on coronatorial law and practice, on the ground that it represents a distinct advance in the subject, embodies a large number of very necessary innovations, and is well ahead of any existing legislation on the subject.

S. 8 enumerates the cases in which a coroner must hold an inquest. The Act contains a useful section empowering a coroner, if he thinks it advisable to do so, to have a postmortem examination made of:

(1) the body of any person who has died a sudden death, the cause of which is not known; or

(2) a body respecting which a doubt exists whether it is that of a still-born child,

to assist him in deciding if an inquest ought to be held.

In the case of an inquest of death arising out of mining operations, the following persons have a right to attend the inquest personally or by counsel, and examine and cross-examine witnesses, viz. (1) the Inspector of Mines for the district; (2) the widow or a relative of the deceased; (3) the owner or manager of the mine; (4) a representative of the Miners' Association for the district.

The same privilege is extended in the case of any inquest whatever to persons who, in the opinion of the coroner, have a sufficient interest in the subject or result.

S. 28 abolishes the old doctrine that the inquisition and depositions are the property of the coroner. The section provides that the coroner shall forthwith after an inquisition found by or before him transmit the same and every recognisance taken before him, and the depositions of witnesses and

the statements (if any) of accused persons, to the Attorney-General, who will forward the inquisitions to the Supreme Court Registry for enrolment therein. The Attorney-General was introduced into this provision because there are no Grand Juries in Tasmania, and their functions are exercised under statutory authority by the Attorney-General or the Solicitor-General (a permanent officer); it is therefore for one or the other of them to determine if criminal proceedings are to be instituted as the result of an inquest, for which reason the inquest papers have at once to be forwarded to the Attorney-General.

The eleventh section enumerates the cases in which an inquest must be taken by a jury.

The following persons are disqualified from serving on coroners' juries:

1. If the inquest be on a death occurring in a mine:
   (*a*) any person having a personal interest in, or employed in, or in the management of the mine;
   (*b*) any relative of the deceased.
2. If the inquest be on the death of a prisoner:
   (*a*) any officer of the prison;
   (*b*) any prisoner in the prison;
   (*c*) any person engaged in any kind of trade or dealing with the prison.

Another section makes it incumbent upon the holder of a hotel or public-house licence, if required to do so by a coroner or a constable, to receive into the premises, or premises occupied therewith, any dead body brought there for the purpose of holding an inquest thereon, but creates an exception in any case where there is a public morgue within three miles of the premises.

The verdict of *felo de se* is formally abolished, and amongst the numerous forms prescribed in the schedule are a number of specimen findings, including those to be used in the case of suicide.

Deceased Persons' Estates.—No. 7 amends that portion of the Deceased Persons' Estates Act, 1874, which deals with the power of an executor or administrator to sell real estate for the purpose of paying the debts and funeral and testamentary expenses of the deceased (s. 12).

The effect of the amendment is that an executor or administrator, whether administering a testate or an intestate estate, has now (1) where there is no contrary provision in the will (if any), full and unrestricted power; (2) where there is a contrary provision in the will, then if a judge sanctions such a course, full and unrestricted power to sell or mortgage the real estate of the deceased for the purpose of paying all duties and fees payable under any Act making or charging any duties or fees on the estates of deceased persons, and for the payment of the deceased's debts in the ordinary course of administration, and of his funeral and testamentary expenses.

The Act expressly reserves the duty of the executor or administrator to account to the persons beneficially entitled or interested for the exercise by him of any of the powers conferred thereby.

The Act further empowers a judge, if he thinks it beneficial to do so, to give leave to an executor or administrator:

(1) to postpone the realisation of the estate of a deceased person or any part thereof;

(2) to carry on the business of the deceased, and to use the estate, or such part as the judge directs, for the purpose;

and relieves an executor or administrator acting under such leave from answering for consequent loss, except in case of breach of trust, negligence, or wilful default.

Insecticides.—No. 47 is an Act to regulate the sale of insecticides (proclaimed substances for destroying or dealing with insects or pests which affect or attack plants or fruit or animals), fungicides (proclaimed substances for destroying or preventing the attacks of fungi or other parasite plants or bacteria), vermin destroyers (proclaimed substances for preventing the ravages of or destroying rabbits, vermin, rodents, or other noxious animals or noxious birds), and weed destroyers (proclaimed substances for destroying or preventing the spread of weeds or noxious plants).

The Act provides that the Governor may prescribe a standard for any such preparation, fixing all or any of the following matters:

(1) the constituents that may or shall be contained therein;

(2) the quantities or proportions of such constituents;

(3) the chemical or physical conditions of such constituents;

and may require particulars of all or any of those constituents should be stated on a sale of the substance.

The statement must, together with the distinctive name or trade description of the substance, be signed and given to the purchaser at the time of sale, and must also be durably branded or fixed to every package containing the substance.

The Act contains provisions relating to the taking of samples by an official analyst or inspector, and of the right of the buyer to an analysis by the official analyst.

Inspection of Machinery.—No. 45 is an amendment of the Inspection of Machinery Act, 1902, and contains a few provisions relative to the control and charge of mining machinery, the effect of which is to require a certificate of competency or service in every case, and to make the continuous attendance of a competent person necessary during the working of any electric motor situated underground. The latter provision is a direct result of an appalling mining disaster in 1912 at the North Lyell Mine, on the West Coast of Tasmania.

Mining Companies.—No. 44 effects two objects. In the first place it enacts certain amendments to the Mining Companies Act, 1884. In the

second place it repeals all the various Acts amending that Act, and re-enacts them in such form that they may be embodied (under the Amendments Incorporation Act) in any reprint of the principal Act.

One of the amendments which it enacts defines the expression "common seal" used in the principal Act to mean "a common seal in the form of an embossment or raised impression made by means of a metal stamp."

The only other one of consequence makes alterations in the manner in which certain matters requiring advertisement under the principal Act shall be advertised.

Opticians.—No. 15 forbids any person other than a medical practitioner registered under the Medical Act, 1908,[1] to practise optometry or dispensing oculists' prescriptions for glasses in Tasmania without being registered thereunder. It also sets up a standard of skill, to which candidates for registration must conform, and also a board for the purpose of effectuating its purposes.

Payment of Members.—No. 49 increases the annual allowance of Members of Parliament to £200 each per annum, and provides that the Leader of the Opposition in the House of Assembly shall receive in addition to his salary as a Member an additional annual sum of £100.

The sixth section, however, adds a limitation to the payment of salaries, in declaring that no Member (other than a Premier without ministerial office) whilst in receipt of an official salary (*e.g.* the President of the Legislative Council, the Speaker of the House of Assembly, the Chairman of Committees in either House) shall be entitled to receive any salary under this Act except in so far as such last-mentioned salary may exceed such official salary. The salary attaching to the office of Premier is £200—hence the exception.

Statutes Compilation. No. 8 is an amendment of the Statutes Compilation Act, 1912, to authorise (1) the incorporation in any compilation of amendments indirectly effected; and (2) the compilation to be introduced into Parliament during the Session in which the authorising resolutions were passed.

Vehicles and Boats.—The object of No. 11 is to prevent the occurrence of cases commonly known as "the joy-ride." A penalty is therefore imposed on persons using another's vehicle or boat without the consent of the owner or person in lawful possession thereof.

Wages Boards.—No. 46 is an amendment of the Wages Boards Act, 1910,[2] and of the Factories Act, 1910.[3]

S. 2 is designed to meet the case of the employers or employees failing to elect their representatives or the full number of their representatives on the Wages Board within the appointed time; it provides that the Governor shall, on the Minister's nomination, appoint representatives to fill the vacancies,

[1] No. 32 of 1908. See Journal, vol. x. p. 338.
[2] No. 62 of 1910. See Journal, vol. xii. p. 415.
[3] No. 57 of 1910. See Journal, vol. xii. p. 414.

and shall gazette such appointments. There is another minor amendment relating to the appointment of Wages Boards, the total result being that the Boards are appointed as follows:

(1) The Minister nominates persons for appointment as representatives of the employers and employees, and gazettes such nominations.

(2) All nominees who are not objected to within twenty-one days of such gazetting by five of the class they are to represent, shall be appointed by the Governor, and their appointment gazetted.

(3) If any nominee is so objected to, the class which he was to represent shall elect in the prescribed manner a representative in his stead, and the elected person shall be appointed by the Governor, and his appointment gazetted.

(4) If there occurs a failure so to elect representatives or the full number are not elected, the Governor may, on the nomination of the Minister, appoint representatives to fill the resulting vacancies, and gazette the appointments.

S. 4 inserts in the Wages Boards Act, 1910, a somewhat obscure new section (31B), the effect of which appears to be that if a Wages Board has made a determination, and employees of either the Hobart or the Launceston Municipal Council are for the time being engaged under an agreement with the Council for a fixed term in doing for the Council similar work to that for which the particular determination is made, and if that Board raises no objection on the ground that—

(1) the wages being paid by the Council for that work are inadequate; or

(2) that the conditions of such employment are unsatisfactory

then that particular determination shall not apply to the Council and those employees during the subsistence of that agreement. This section was introduced during the passage of the Bill through Parliament.

S. 52 of the Factories Act, 1910, specifies the maximum working hours of, and the overtime rates for, male workers, and s. 4 of this Act provides that "where any determination of a Board fixes the maximum number of working hours in any trade or group or part for which such Board is appointed, s. 52 of the Factories Act, 1910, shall as to such group or trade or part, so long as such determination continues in force, be read and construed subject to the determination."

Width of Tyres.—S. 1 of No. 18 contains an express incorporation with the Local Government Act, 1906, to which the statute under review is supplementary. The Local Government Act, 1906, invests municipal councils with a power to make by-laws "prescribing the width of and other conditions respecting the tyres of vehicles used in the municipality, either with respect to the weight of the load carried, or with respect to the diameter of the axles of such vehicles, with power to prescribe that the measure of such diameter be kept painted on every vehicle carrying goods."

This power is now taken away from the councils, and the Act fixes a

maximum weight which may be carried on any public road by means of a vehicle (which does not include a traction engine, or any vehicle running exclusively over any tramway). The rule for determining this maximum is: "For every half-inch of width of bearing surface of the tyre or felloe of each wheel, there may be carried a total weight of three and a quarter hundredweight avoirdupois." The Governor may, however, on the application of any municipal council, reduce the permissible maximum for a limited or unlimited period, in the case of public roads generally, or on any specified public roads or classes of public roads, or any public road whilst in any specified state or condition, within the municipality.

The Governor is further empowered to make regulations for declaring the weight of any specified descriptions or classes of goods by measurement, and the Councils may make by-laws not inconsistent with the Act or any regulations thereunder for carrying the Act into effect.

The Act does not in any way effect the councils' powers of regulating by by-law the kinds of loads that may be carried on specified roads within their municipalities.

6. VICTORIA.

[*Contributed by* C. J. Zichy-Woinarski, Esq., K.C., *and* W. Harrison Moore, Esq.]

Acts passed—58.

The legislation of the session contains an unusual proportion of local and amending Acts, and has few features of general interest.

Savings Bank.—No. 2473 is a technical Act, but one of great importance to the Commissioners of the State Savings Bank. In 1896 the *Credit Foncier* department was established (and has been since extended) for the purpose of making advances on farming properties in sums ranging from £50 to £2,000, and on house and shop securities in sums of from £50 to £1,000, and funds for the purpose of these loans were first obtained by the sale of mortgage bonds, and since 1901 have been obtained by the sale of debentures in denominations of £100 and more, redeemable at a fixed date not more than twenty years from issue. The Commissioners felt that the existing law placed unnecessary restrictions on the successful operations of this department, and the present Act removes some limitations and makes necessary amendments.

The power to issue debentures was limited to issuing them only for the purpose of making advances, and not for redemption purposes, and this latter power is now given (s. 2, sub-s. 1).

There was no power to relend moneys repaid to the Commissioners on account of advances they had made, and this power is now given (s. 3).

The power to issue mortgage bonds and debentures was limited to the

sum of £6,000,000. In about eighteen months' time the whole of this sum will have been issued, and although by that time £2,000,000 of the issue will have been repaid, leaving only the £4,000,000 outstanding, the authority of the Commissioners will have been spent. The present Act gives credit for the amount redeemed, and enacts that instead of the authority being for the amount to be issued, the £6,000,000 will be the limitation on the liability to be outstanding at any time (s. 2, sub-s. 2 [3]).

The rate of interest hitherto payable on the debentures was fixed at 3½ per cent., and this rate now is raised to 4 per cent. (s. 2, sub-s. 3).

The currency of debentures is also extended from twenty to twenty-five years (s. 2, sub-s. 4).

The limitation of the amount that may be redeemed in quinquennial periods, viz. £1,000,000, is repealed (s. 2, sub-s. 5).

The necessity for further advances to a borrower being secured by an additional deed is now obviated by a provision that any first mortgage may provide for the securing and repayment of further advances (s. 4). But this, of course, is only to apply where the rate of interest has not been increased since the first advance was made, and if interest is increased, a deed of further charge for the further advance is still necessary (s. 5, sub-s. 1).

The new Act also provides for the reduction of the rate of repayment of the principal when a loan has been reduced to half the amount of the valuation (s. 5, sub-s. 2), and this is a concession likely to be popular with existing and future borrowers, for it does happen that a borrower, dissatisfied with the heavy payments on account of principal after reducing his indebtedness, will pay off the whole of, or obtain a new loan for, the balance, in order to have the rate of repayment reduced.

The Act, in s. 6, makes the consent of the Commissioners necessary to any sale or contract to sell the mortgaged lands. Such consent has always been necessary for sub-division or leasing mortgaged lands.

Power, too, is given to increase the rate on loans from 5 per cent. to 5½ per cent. (s. 7), and to substitute stock for debenture (s. 8), and also to make advances on land subject to the Closer Settlement Act of 1904. Power to make advances was limited to freehold lands or to Crown leaseholds, which could be made freehold by the paying up of Crown rents, and a doubt that had arisen as to loans on these settlement blocks is now set at rest by this last provision.

Mines.—In the main No. 2489 is an amending Act dealing principally with the regulation of the mining industry and with the safety of the miners, and the provision of better conditions throughout mines generally—all of them matters already regulated by law, and now amended in certain details.

The Act is sub-divided into three parts.

Part I. is mainly amending, and deals with mining generally. The cost of a business licence is reduced, and there is a prohibition on a person having only a miner's right carrying on business without a business licence,

and all business licences are made to expire on December 31 of each year (ss. 4–7). Mining companies are to be required to furnish half-yearly returns of the number of persons engaged, and the amount of minerals and gold obtained by them, and copies of all reports laid before general meetings of mining companies must be now furnished to the Secretary of Mines, so that he may keep in closer touch with the working of the different companies (s. 16).

The Minister is given power to order an inquiry before the Warden where it is alleged that there has been a breach of the labour conditions of any licence to work tailings (s. 21).

The acceptance of the rent of any lease by the Minister is not to be deemed a warrant of any breaches of covenant, and the Minister, notwithstanding, may grant an inquiry to be made by the Warden so as to enforce the observance of any covenant or to forfeit the lease (s. 22).

A lease may now be declared void if, without the consent in writing of the Minister, the land has been worked by any method of dredge-mining or sluicing, or if, being land leased for a machinery site, the machinery on the site has not been used *bona fide* for mining purposes for twelve consecutive months (s. 25).

Power is now conferred on the Governor in Council to grant licences to construct drives through Crown lands leased for mining purposes, and a previous limitation on such a power is now withdrawn (s. 27).

Statutory protection is given to water dams and reservoirs constructed by mining companies, and abandoned, as some of them are of large capacity and valuable (s. 30).

The provisions of the Coal Mines Regulation Act, 1909,[1] dealing with restrictions on employment of boys and females, are now made generally applicable (s. 31–3), and a number of the general rules safeguarding coal miners are made applicable to all mines, *e.g.* spraying to prevent dust from boring operations, penthouses in shaft sinking, indicators on winding drums, safety hooks, trial trips of winding plants after certain stoppages, testing of ropes, safety cages and tanks, smoke helmets in mines with foul air, etc. (s. 34–5).

The important question of certificates for mining managers is also dealt with in this Part I. Twelve months after the commencement of this Act it will be compulsory that the manager of a mine employing twelve men or more underground shall hold a first-class certificate, either of competency or service, and the general scheme of the Coal Mines Regulation Act, 1909, is, in this matter, made applicable to mines generally (ss. 36–51). An entirely new provision is the granting by the Minister of twenty scholarships annually, each tenable for not more than three years, to working miners in mines who (in order to qualify themselves for obtaining certificates of competency as mining managers) are desirous of pursuing their studies in any school of mines or educational institution approved by the Board of

[1] No. 2240. See Journal, vol. xi. p. 393.

Examiners for mining managers. The said Board conducts the examination for the scholarships, which are of the annual value of £10 each (s. 52).

The Act gives recognition to certificates of engine drivers to whom have been granted certificates outside Victoria upon certain proofs being adduced to the Board of Examiners of engine drivers, and the provisions of the Coal Mining Regulation Act, 1909, requiring the person in charge of the principal winding machinery on or below the surface to be a certificated man are reproduced (ss. 53–6).

It is also provided as to boiler attendants that if an inspector of mines is of opinion that the duties of being in charge of and working both an engine and the boiler or boilers used in or in connection with any mine cannot be performed with safety by one person, he may require, by a written notice to the owner of the mine, that a separate boiler attendant shall be provided (s. 57).

A coronatorial inquest on the body of any person killed in a mine is, whenever it is practicable, to be by jurors, one-half of whom shall be working miners (s. 59). Mineowners now are compelled each year to forward copies of the plans and sections of the mine, showing to an approved scale all the underground workings effected and provisions made for ventilation in the mine up to the preceding December 31 (s. 60). A section of this Part I. confers power on the Minister to authorise boring for gold or minerals on behalf of the Department of Mines on private lands on payment of compensation (s. 61). These are the main provisions of Part I. of this Act.

Part II. deals with Drainage Boards. Where the owners, or a majority of them of adjacent, contiguous, or neighbouring mines which are subject or liable to any influx of water from above or below ground agree that action should be taken at the joint expense to prevent or control such influx, they may apply to the Governor in Council to have a specified area embracing these mines made a drainage area, and the Governor in Council may then constitute it a drainage area (s. 68).

Every such drainage area has its own Drainage Board, the members of which are nominated for appointment by the mineowners, and failing such nomination by the Governor in Council; and there is power given to the Governor in Council to constitute a drainage area without application from the mineowners and appoint the Board (ss. 69–71).

Any Drainage Board is empowered to require the owner of any mine within the area to use and drain water from such mines continuously or otherwise with any existing machinery or to construct any necessary machinery or do any other work or thing the Board considers necessary for preventing or controlling the influx of water. The Board may if necessary enter a mine and by its servants or workmen do any work or thing necessary to raise or drain the water. The Board determines the cost of raising or draining the water by the use of efficient machinery, and an owner using such machinery

is to be paid by the Board such cost out of any funds available for the purpose (s. 75).

The cost of operations and of any expenses necessarily incurred by a Drainage Board is met by contributions from the owners of the mines within the drainage area, and the Board assesses the contribution payable by each owner, and it is made a debt recoverable by the Board in proceedings before the Warden (s. 76), and upon default in payment is a charge upon the mine and its plant, machinery, and effects (s. 77).

Appeal to the Warden is given in the case of an owner aggrieved by the amount of any contribution he is required to pay (s. 78).

Three months' notice of intention to discontinue drainage operations by any owner who has been required by a Board to raise or drain water is made necessary, and this notice is to be to the Board, which in turn notifies all the owners in the area (s. 79).

In the case of an owner using or selling the whole or part of the water he is required to drain, the Board deducts from the amount payable to such owner for the raising and drainage the value of the water sold or used (s. 80).

As an ultimate consequence of the non-payment of any contributions, power is given to the Governor in Council to avoid the lease in respect of the mine (s. 83). The Act provides too that such contributions paid by any owner may, if the Minister thinks fit, be taken as the monetary equivalent of the labour covenants of the lease for such period as may be determined (s. 84).

Part III. of this Act abolishes all mining boards and makes certain necessary consequential alterations as, *e.g.*, continuing the by-laws until revoked or altered by the Governor in Council (ss. 86–91).

Sale of Fruit and Vegetables.—No. 2465 aims at checking fraud in connection with the sale of fruit and vegetables in large or small quantities. It provides that the outer layer or shown surface of every lot or package sold shall be so arranged and packed as to be a true indication of the fair average quality of the whole, including any "foreign substance" (defined as including "any earthy matter, stones, sand, or gravel") therein. Penalties for contravention range from £5 to £10, with a minimum of £1 for every offence after the first. Inspectors under the Act may prosecute and may also enter or inspect places in which such commodities are sold, or examine fruit or vegetables in the streets for sale.

Agents or servants of the vendor committing an offence without his authority are liable; and there is a curious provision for the protection of innocent vendors. Where a vendor is charged under the Act he may by information duly laid cite any person whom he alleges to be the actual offender, and if the offence is proved the person so cited shall be convicted and the first defendant exempted from penalty on proof that he used due diligence to enforce the execution of the Act and that the offence was committed without his knowledge or connivance and in contravention of his orders.

Spirit Merchants' Licences.—No. 2463 empowers the licensing Courts to grant to a body corporate a spirit merchant's licence, and makes such body corporate liable for penalties for offences under the licensing laws as if it were a private person "so far as such penalties are enforceable against a corporation," and it affixes liability for such offences to the officers of the corporation who authorise or permit the offence.

Workers' Compensation.—No. 2496 establishes a comprehensive scheme of compensation for accident combined with compulsory insurance as incident thereto. The employer (including the Government) is made liable for "any accident arising out and in the course of the employment," unless the period of disablement is less than one week, or the injury is due to the worker's serious and wilful misconduct (except where death or serious and permanent disablement has ensued) (s. 5). "Workers" under the Act are all persons (including domestic servants) who have entered into or work under a contract of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, subject however in the case of those not engaged in manual labour to their remuneration not exceeding £200 per annum; and there are excepted from the Act all persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, outworkers, and members of the employer's family dwelling in his house. The provisions of the Act are expressly applied with modifications to seamen (s. 17); and by s. 18 the disablement of a worker by various industrial diseases is put on the same footing as injury by accident. The diseases and the processes of industry in which they are contracted are set out in the third schedule. Approved schemes of compensation and insurance may be accepted in substitution for the application of the provisions of the Act (s. 13). The amount of compensation payable in case of death where there are dependants wholly dependent on deceased's earnings is a sum equal to three years' earnings in the employment of the same employer or £200, whichever is the larger, but so that the amount payable shall not exceed £500 in all. When the deceased has not been in the employment for three years, the amount due shall be computed by multiplying his weekly wages by 156. Where the deceased leaves persons partially dependent on him the compensation is, subject to the above maximum, to be that which is agreed or determined to be reasonable and proportionate to the injury sustained by the dependants. In case of incapacity for work, the compensation is by way of weekly payment of an amount not exceeding 50 per cent. of the wages, or in the case of persons under twenty-one years of age with a wage less than £1 per week, 100 per cent., subject to a maximum of 10*s*. Special provision is made for limiting the amount of compensation payable to workers certified as especially liable from age or infirmity to accident. Disputes as to the amount of compensation are to be settled by arbitration, and a medical referee may be called in as assessor. If in the opinion of the arbitrator an employer is responsible for or has caused any unreasonable delay in the settlement of a claim, the

amount of compensation may be increased by 10 per cent. from notice of the accident to the date of assessment (s. 6).

Insurance to meet the obligations imposed by the Act is compulsory (s. 37). It may be made either with an approved insurer or with a State Accident Insurance Office established under the Act.

Workers' Dwellings.—No. 2479 gives additional powers to municipal councils and enables them to purchase or to take compulsorily land in their municipal districts suitable for the erection of dwelling-houses thereon for leasing to persons who are not owners of dwelling-houses in Victoria or elsewhere, and are not in receipt of incomes of more than £200 a year (s. 2, sub.-s. 1). In fixing the rent for such workers' dwellings the municipal council is to take into account interest, depreciation, rates, repairs, and insurance (*ib.* sub.-s. 2). The municipal council must yearly prepare a separate balance-sheet showing receipts and expenditure and assets and liabilities of all operations undertaken during the previous year under the provisions of this Act (*ib.* sub.-s. 3), and no tenant can sublet his dwelling (*ib.* sub. s. 4).

The Act sets forth in detail the powers of the municipal council in this matter as follows:

(*a*) To demolish or repair any dwelling-houses or buildings on any such land;

(*b*) to construct new dwelling-houses or buildings thereon;

(*c*) to alter the levels of such land and alter existing drains, and construct new drains and storm-water channels thereon;

(*d*) to make any improvements on such land, and improve, alter, and re-model any dwelling-houses or buildings on such land; and

(*e*) to maintain from time to time in good repair all dwelling-houses and buildings upon such land (s. 3).

Before borrowing moneys for the purposes of this Act a municipal council must submit for the approval of the Governor in Council plans and specifications and an estimate of the cost (ss. 4 and 5).

A lease of a workers' dwelling-house may also be granted for any term notwithstanding that by the Local Government Acts the power of a municipal council to lease land vested in it is for not more than seven years (s. 6).

With the approval of the Governor in Council, by-laws may also be made by any municipality for carrying out any of the purposes of this Act (s. 7).

The sum of £50,000 is the maximum sum that any municipality may borrow for the purposes of this Act in addition to borrowings that may be authorised under the Local Government Acts (s. 8).

The consent of the Governor in Council is necessary for borrowing (s. 10).

The Act also enables a Council to advance out of the municipal fund moneys required for the purposes of the Act, and may for such purposes increase, if necessary, the general rates, notwithstanding the statutory limit

of 2*s.* 6*d.*; but so far as is practicable all moneys so advanced shall be repaid to the municipal fund out of any profits arising under the Act (s. 9).

The Act is made applicable in terms to the City of Melbourne and the City of Geelong (s. 11).

Crimes.—No. 2505 extends the protection already given by the law against the unlawful carnal knowledge of a girl under the age of sixteen years of age to an unmarried female under the age of eighteen years, and makes it an offence punishable with twelve months' imprisonment unlawfully and carnally to know a girl of or above the age of sixteen and under the age of eighteen years of age even with her consent. An exemption is made in the case of a female who with her consent has previously had carnal knowledge with a male person. A limit of time for the prosecution of an offender is also provided.

University.—No. 2464 amends the constitution of the Senate of Melbourne University by providing for the inclusion of women who are otherwise qualified. "The Senate" is the convocation of graduates holding a Master's or Doctor's degree in the University, and its assent is necessary to all statutes and regulatious made by the University.

Marriage.—By the terms of an earlier Act upon and during the hearing of any pre-maternity application, the only persons permitted to be present in the Court were:

(*a*) The adjudicating justices, the officers of the Court, and a member of the police force;

(*b*) the complainant and the defendant and their respective barristers and solicitors;

(*c*) the mother or sister, a male friend of complainant if desired by complainant;

(*d*) any person whilst being examined as a witness; and

(*e*) the mother, or sister, or female friend of any female witness if desired by such witness whilst being examined.

An amending Act (No. 2459) makes the same provision applicable to the hearing of any application for maintenance against the father of an illegitimate child or children, and also adds to Clause (*b*) the words "and the clerks of such barristers and solicitors."

Oaths.—No. 2460 provides a new form of oath which does not require "kissing the book." The form is practically the same as is provided for by 9 Ed. VII. c. 39, s. 2. The following alternative form may be administered in the case of two or more persons, as *e.g.* jurymen, being sworn at the same time: Each of the persons taking the oath shall hold the Bible or the New Testament or the Old Testament in his uplifted hand and the officer administering the oath shall say—"You and each of you swear by Almighty God that . . . ." followed (with any necessary modifications) by the words of the oath prescribed or allowed by law, and forthwith after the officer has said the words referred to, each of the persons taking the oath shall say—"I swear by Almighty God so to do."

Further provision requires the officer administering the oath to administer it as now required unless the person to be sworn objects voluntarily or is physically incapable of so taking the oath, or the Court or person acting judicially has reason to think or does think the new form would not be binding on the conscience of the person to be sworn.

Municipalities' Powers Extension.—No. 2461 extends the educational objects to which municipalities are empowered to contribute by adding district high schools and higher elementary schools.

Rating on Unimproved Values.—No. 2478 enables any municipal council to substitute for the existing system of rating, rating upon unimproved values. A poll may be demanded by one-tenth of the persons on the municipal roll either by way of challenge to the act of the council or for the purpose of requiring action to be taken. The proposal will be carried if it is supported by a majority of the valid votes cast, such votes being at least one-third of those on the roll. The system when adopted may be abandoned on a like poll, but after any poll no new poll is to be taken on the subject within three years, except where the proposal submitted has been rejected because, though obtaining a majority of votes cast, the number cast was less than that required by the Act. Certain properties are excepted from the operation of the Act, and are to be rated as if the Act had not been passed, including property owned or occupied for the purposes of railways, tramways, waterworks, hydraulic works, electric light and power works or gas works, and such other properties as are declared to be "special" rateable properties under the Act. The rate to be paid by these special properties is to be determined by computing the rate on the annual or net annual value of the district which would be necessary to raise the amount of money expected from the rate on the unimproved value, and the rate payable by the special property shall be as nearly as possible the amount in the pound so ascertained.

7. WESTERN AUSTRALIA.

Acts passed—36.

Criminal Law.—The important feature of the legislation of the year is a new edition of the Criminal Code. By No. 15 numerous amendments are made, and by No. 28 a new code is enacted to include the original code of 1902, and five other amending statutes, besides the Secret Commissions Act, 1905. The principal addition to the law relates to the effect of conviction upon the property of prisoners.

Evidence.—No. 16 provides that a wife or husband may be a competent but not a compellable witness.

Opium.—No. 31 is noticeable for the brevity of the sections. The second is, "No person shall smoke opium." 3. "No person shall sell or deal or traffic in opium in any form suitable for smoking." 4. "No person

shall prepare or manufacture opium in any form suitable for smoking." 5. "No person shall have in his possession, order, or disposition opium in any form suitable for smoking." "Possession" is defined, power given to the police to search, and penalties imposed for offences.

Liquor Licensing.—No. 36 increases the penalties upon persons concerned in any degree in the illicit sale of intoxicating liquors. The whole burden of proof is thrown upon the person charged. It is even assumed until the contrary is proved that any liquid is liquor. Further, it is enacted: "Notwithstanding any rule of law to the contrary, the evidence of a police officer in any proceedings against a person charged with an offence against this Act shall not be deemed or treated as evidence of an accomplice or accessory, so as to require corroboration, by reason only of the fact that such police officer purchased or obtained the liquor, the subject of the prosecution, from the person charged."

8. PAPUA.

The review of legislation is unavoidably postponed until next year.

9. NORTHERN TERRITORY.

Ordinances passed—8.

Mineral Oil.—Licences to search for mineral oil may be granted by authority of No. 1, and leases granted to work the mines. Only companies incorporated in the United Kingdom or a British possession may receive either the licence or lease. Where two applications are made at the same time, "the Director of Mines may decide by lot which application is to have priority of consideration." The Governor-General has the right of pre-emption of all oil produced by the lessee, and in the event of war he may assume control of the whole property, subject to a right of compensation for the lessee. Progress of the work and returns of the oil produced are to be reported regularly to the Director of Mines.

Wild Birds.—Twenty-eight species of birds are wholly protected by No. 2, and all others, with eleven exceptions, during close seasons.

Mines.—Mining is encouraged by No. 4 by the grant of licences for prospecting and the reward by way of lease or otherwise to any person discovering any new mineral. The working of mines may be subsidised by the Administrator.

Advances to Settlers.—No. 5 makes arrangements through an Advances to Settlers Board for assistance to settlers upon lines which are familiar in the States.

Civil Service.—The Public Service is divided into four sections—Administrative, Professional, Clerical, and General—by No. 6. Full details are incorporated as to administration of the public service from entrance to dismissal, which may be at any time after the age of sixty.

10. TERRITORY FOR THE SEAT OF GOVERNMENT.

All birds and animals within the Territory are absolutely protected by No. 1, except rabbits, native dogs, foxes, tiger-cats, native cats, flying foxes, venomous snakes, all domestic pets and parasites, sparrows, starlings, lorikeets (including all fruit-eating parakeets), crows, silver-eyes, and cormorants.

11. NEW ZEALAND.

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Acts passed—Public and General, 77; Local and Personal, 26; Private, 6.

Old Age Pensions (Reciprocity with the Commonwealth of Australia).—The Old Age Pensions Reciprocity Act, 1913 (No. 3), ratifies an agreement entered into, on behalf of the Governments of Australia and New Zealand respectively, with reference to the payment of old age pensions in either of the said countries to applicants who have been resident in the other.

Clauses 2 and 3 of the said agreement are in the following terms:

"2. Residence for any period in the Dominion by an applicant for a Commonwealth pension who has been resident in the Commonwealth for a period of twelve months immediately preceding the date of his application shall for the purpose of qualifying him for a pension be taken as equivalent to residence in the Commonwealth.

"3. Residence for any period in the Commonwealth by an applicant for a Dominion pension who has been resident in the Dominion for the period of twelve months immediately preceding the date of his application shall for the purpose of qualifying him for a pension be taken as equivalent to residence in the Dominion."

The agreement becomes operative in New Zealand on a date to be fixed by the Governor by notice in the *Gazette*, such date being not earlier than the date of the coming into operation of the agreement in the Commonwealth of Australia. It seems improbable, at the present time, that any actual agreement will be come to.

Copyright.—The Copyright Act, 1913 (No. 4), enacts, with the necessary modifications, the provisions of the Copyright Act, 1911 (Imperial).

Provision is made for the extension, by Order-in-Council, of the provisions of the Act:

(*a*) to works first published in any part of the British Dominions to which the Order relates;

(*b*) to works first published in a foreign country to which the Order relates; and

(*c*) to residence in any such part of the British Dominions or in any such foreign country, as if such residence were residence in New Zealand.

Pursuant to the foregoing authority Orders-in-Council (dated March 27, 1914) have been issued extending the Acts:

(*a*) to all parts of the British Dominions to which the Imperial Copyright Act, 1911 (1 & 2 Geo. V. c. 46), extends; and

(*b*) (with certain specified restrictions and conditions) to foreign countries of the Copyright Union.

Hitherto, in New Zealand, registration has been required before action could be taken for infringement of copyright, but this is not now necessary, though registration may still be effected, and certain remedies are available only to the registered owner.

Administration of Justice.—The Magistrates' Courts Amendment Act, 1913, provides for the qualification, appointment, and salaries of stipendiary magistrates, and also defines the civil jurisdiction of Magistrates' Courts.

Irrigation.—The Irrigation and Water Supply Act, 1913 (No. 8), authorises the raising of a loan, not exceeding £100,000, to be expended in the opening up and development of land for settlement in arid country, and in constructing and maintaining irrigation and water-supply works in aid of the mining and agricultural industries.

Official Reprints of Statutes.—The Amendments Incorporation Act, 1913 (No. 9), provides for the incorporation of amendments in official reprints of amended Acts, and further provides that judicial notice of such reprints be taken by all Courts and persons acting judicially. The provisions of this Act differ materially from those of the Statutes Compilation Act, 1908; reprints of amended Acts are not themselves enacted by Parliament, but compilations are enacted, and contain provisions repealing the Acts that are compiled.

Pensions.—The Pensions Act, 1913 (No. 10), repeals and re-enacts with modifications the several Acts relating to the grant of pensions in New Zealand, viz. (1) the Old Age Pensions Act and its amendments; (2) the Widows' Pensions Act and its amendments; (3) the Military Pensions Act.

Amendments have been made with a view to removing certain hardships and anomalies disclosed in the course of administration, particularly with reference to old age pensions.

For example, the definition of "income" is limited so as to exclude the following classes of payments:

(*a*) any pension payable under the Act;

(*b*) any payment by way of sick-allowance or funeral benefit from any registered friendly society;

(*c*) any money received by way of charitable relief, not exceeding £52 in any year;

(*d*) any money received from a Gold-miners' or Coal-miners' Relief Fund or Sick and Accident Fund;

(*e*) any money received on the sale or exchange of land or property;

(*f*) any money received under an insurance policy on the destruction or damage by fire or otherwise of a building or other property;

(*g*) any capital moneys expended for the benefit of the applicant or for the benefit of his or her wife or husband or dependent children;

(*h*) any money or money's worth received by an applicant on the intestacy or under the will of the deceased husband or wife of the applicant; and

(*i*) any payment by way of gift or allowance (not exceeding £52 in any year) from any relative of the applicant.

The exemptions provided for in paragraphs (*b*), (*c*), (*d*), (*g*), (*h*), and (*i*) above are new. The amended definition, by decreasing the amount deemed to be the income of applicants, has the effect of increasing the number and amount of pensions that may be granted.

An important amendment (relating to pensions to elderly women) is made by s. 7, which reduces the age at which a woman qualifies for a pension from sixty-five to sixty years, with a qualification that the amount of pension otherwise payable is in such cases diminished by £1 for each year by which the applicant's age is less than sixty-five years.

The conditions relating to continuous residence in New Zealand of applicants for old age pensions have been somewhat relaxed by the inclusion of a provision in s. 8, which, in certain cases, allows an applicant to have been absent from New Zealand for more than two years of the preceding twenty-five years if the total period of his actual residence in New Zealand is not less than twenty-five years.

S. 13 confers a benefit on married applicants by providing that the separate yearly income of husband and wife respectively is to be computed as half the total yearly incomes of both of them, and also extends from £90 to £100 the possible joint total income (including pension) of husband and wife. The effect of the division of the income as aforesaid is to reduce the deduction made from the amount of pension payable, and consequently to increase the amount of pension.

Part II. (relating to widows' pensions) extends the benefits to widows in respect of stepchildren and of children legally adopted during the lifetime of the deceased husband of the applicant. The other amendments are immaterial.

Part III. provides for the grant of a pension of £36 per annum to any person who "served under the Crown in any of the Maori wars, and has been awarded a medal for active service in any such war." The only conditions to which the grant of such pension is subject are that the applicant shall have resided continuously in New Zealand for not less than ten years immediately preceding the date of his application, and that he has been of good behaviour during that period.

Taxation.—The Land Tax and Income Tax Act, 1913 (No. 12), introduces a system of graduated income tax by which the rate of tax is increased in respect of each additional pound of rateable income over £400. Hitherto the rate has been increased only in respect of an increase of not less than £100 in the rateable income, and in some cases an increase of £200 or £250 was required before any increase was made in the rate of tax.

The new system, while not materially increasing the total burden of taxation, results in a much more equitable distribution of the tax.

S. 2 of the Land and Income Assessment Amendment Act (No. 13), authorises a deduction (by way of special exemption) from the yearly taxable income of a taxpayer of £25 in respect of each of his children who is under the age of sixteen years and is dependent upon him. A deduction cannot, however, be made from the income of both the father and mother of a child, nor in any case where the total income of the parents exceeds £425 per annum.

Public Works.—The Aid to Public Works and Land Settlement Act, 1913 (No. 14), authorises the Minister of Finance to raise the sum of £1,750,000, to be applied as follows:

(1) For the construction of railways	£600,000
(2) For additional rolling-stock, etc.	500,000
(3) For the construction of roads, bridges, etc., with a view to promoting land settlement and the development of goldfields	500,000
(4) In respect of other public works	150,000

Architects.—The New Zealand Institute of Architects Act, 1913 (No. 15), establishes a body corporate to be called "the New Zealand Institute of Architects." It provides for the registration of persons qualified to practise as architects, and fixes a fine not exceeding £50 for any person who, not being a registered architect or a member of the Institute, describes himself as such. It also provides for the examination of persons desirous of being registered and for the recognition (without further examination) of persons holding certificates or diplomas in architecture granted by any university, college, or other public institution in Great Britain or Ireland, or in any British possession or foreign country. Provision is also made for the registration of persons who, not being the holders of such certificates or diplomas, have, in the opinion of the Registration Board, "attained great eminence in the profession of architecture."

Local Elections.—The Local Elections and Polls Amendment Act, 1913 (No. 16), makes various amendments of the Local Elections and Polls Act, 1908, principally with a view to bringing the provisions of the last-mentioned Act (relating to the conduct of elections and polls conducted by local authorities) into line with the corresponding provisions in the Legislature Act, 1908 (relating to the election of Members of Parliament). In particular, provision

is now made for a scrutiny by the returning officer after the close of the poll of the several rolls used in the conduct of the poll, and for an official declaration of the result of the poll. Any candidate at an election who has reason to believe that the official declaration is incorrect may apply to a magistrate for a recount of the votes recorded.

Ss. 16 to 22 (relating to offences at ballots) correspond with the provisions as to offences contained in the Legislature Act.

Land Transfer.—The Land Transfer Amendment Act, 1913 (No. 17), makes various amendments of a technical nature in the Land Transfer Act, 1908.

Public Trust Office.—The Public Trust Office Amendment Act, 1913 (No. 19), amends in various particulars the provisions of the Public Trust Office Act, 1908. S. 3 alters the constitution of the Public Trust Office Board, and provides for the appointment of two additional members (not being officers of the public service), who shall hold office for two years, and receive a salary of not more than £250 per annum.

S. 4 authorises the Public Trustee, in the administration of any trust estate, to act in conjunction with "advisory trustees" or "an advisory trustee," who may be appointed by the testator or settler, or by the Court, or by any person having power to appoint a new trustee. Where the Public Trustee acts in conjunction with an advisory trustee, the trust property remains vested solely in the Public Trustee, who may, however, consult the advisory trustee in matters relating to the administration of the estate, and the advisory trustee may advise the Public Trustee on any such matter. In the event of a difference of opinion, the matter may be referred to a judge of the Supreme Court, whose decision is final.

Ss. 5–9 refer to the appointment of the Public Trustee as "custodian trustee" in certain cases. In such cases the trust property is vested in and administered by a managing trustee or managing trustees, and the sole function of the custodian trustee is "to get in and hold the trust property and invest its funds, and dispose of the assets as the managing trustees in writing direct."

S. 11 provides for the investigation and audit of the accounts of estates administered by any person other than the Public Trustee. Such investigation may be made on the application of the trustee or of a beneficiary, and shall be conducted by a solicitor of the Supreme Court or by a registered accountant.

S. 13 provides for the payment to the Public Trustee (unless otherwise ordered by the Court) of all moneys or damages received or awarded in any cause or matter on behalf of an infant or person of unsound mind. When moneys are so paid to the Public Trustee they form part of the common fund of the Public Trust Office, and bear interest accordingly, and the proceeds are applied by the Public Trustee towards the maintenance and education or otherwise for the benefit of the persons entitled thereto.

The remaining sections make various amendments of the principal Act, and extend the powers of the Public Trustee in the administration of trust estates.

Dominion Museum, Art Gallery, and Library.—The Science and Art Act, 1913 (No. 22), provides for the establishment of a Dominion museum, Dominion art gallery, and a Dominion scientific, art, and historical library, and for the constitution of a Board of Science and Art to be charged with the management and direction of the said institutions.

Land.—The Land Laws Amendment Act, 1913 (No. 24), makes several important amendments of and additions to the law relating to the administration of ordinary Crown lands and of lands required by the Crown from private owners for the purpose of promoting settlement.

Part I. deals principally with amendments of a general nature in the existing law. Ss. 28–31 relate to the acquisition of the fee-simple by the lessees of certain Crown lands. The fee-simple so acquired is expressly limited so as not to confer on the owner any right to the metals, minerals, precious stones, coal, or oil that may be on or under the land. S. 39 extends from ten to twenty years the time during which lessees of certain Crown and settlement lands may pay off the unpaid purchase-money in respect of the purchase (pursuant to the Land Laws Amendment Act, 1912) of the fee-simple of the lands comprised in their leases.

Part II. relates to the constitution of special districts for roading purposes. The Minister of Lands is empowered to constitute such special districts, comprising Crown lands held under lease or licence, and on the constitution of any such district the moneys derived from the sale, letting, or other disposal of any of the lands comprised therein (for a period not exceeding fifteen years) are to be utilised (under the supervision and direction of a committee appointed by the settlers within the district) for the purposes of affording access to lands situated within the district.

Part III. relates exclusively to Crown lands held under pastoral licences.

Part IV. confers on the owners of leases in perpetuity of settlement land the right to acquire the fee-simple of the lands comprised in their leases at any time within five years after the date of the passing of the Act. The provisions as to the computation of price and the payment of the purchase-money are similar to the corresponding provisions in the Land Laws Amendment Act, 1912 (relating to the purchase of the fee-simple by lessees under renewable leases of settlement land).

Part V. repeals and re-enacts the provisions of Part VI. of the New Zealand State-guaranteed Advances Act, 1909 (relating to the raising of money for the purpose of providing funds for opening up lands for settlement).

Part VI. relates to the acquisition of private land required for purposes of closer settlement. On the service on the owner of a notice that the land referred to in the notice is so required he is obliged either—

(*a*) to himself subdivide and offer the land for sale in suitable allotments; or

(*b*) to agree with the Minister of Lands for the subdivision and disposal of the land pursuant to the provisions of Part III. of the Land Laws Amendment Act, 1912.

In the event of the failure of the owner either to subdivide or to agree to the subdivision and disposal of the land referred to in the notice as aforesaid, the land may be taken compulsorily under the provisions of the Land for Settlements Act, 1908.

Part VII. relates to the aggregation of land in the hands of private owners, and provides that where such aggregation is deemed to be contrary to the public interest the Governor may by proclamation take the land so acquired as for the purposes of a public work, compensation being assessed in manner provided by the Public Works Act. All land acquired by the Governor under these provisions is to be disposed of under the Land for Settlements Act.

Finance.—The Public Revenues Amendment Act, 1913 (No. 25), makes various amendments of an administrative nature in the principal Act. *Inter alia* it authorises the issue of Treasury bills by the High Commissioner for New Zealand in London, in anticipation of and repayable out of loan-moneys authorised to be raised.

Loans Raised by Local Authorities.—The Local Bodies' Loans Act, 1913 (No. 30), repeals and re-enacts with amendments the Local Bodies' Loans Act, 1908, and such of the provisions of the New Zealand State-guaranteed Advances Act, 1909, as relate to loans granted to local authorities by the Superintendent of the State Advances Office.

Parts II. and IV. are new, and provide respectively for—

(*a*) joint special loans raised by two or more uniting local authorities; and

(*b*) loans to be raised by local authorities and guaranteed by the State.

Part III. (relating to loans to local bodies from the State Advances Office) empowers the Superintendent to grant loans for any of the following classes of public works, viz.:

(*a*) the construction of a road or street, including the channelling thereof;

(*b*) the construction of a bridge;

(*c*) the construction of waterworks for the supply of water;

(*d*) the construction of drainage-works or irrigation-works; or

(*e*) the construction of sanitary works.

Under these provisions no local authority is to receive from the Superintendent more than a total of £60,000 within any period of three years. In dealing with applications for advances, preference is to be given to applications for the renewal of public works that have been destroyed by flood, tempest, or accident.

The rate of interest payable on loans granted by the Superintendent is fixed by s. 68 at 4½ per cent. per annum, or at ⅛th per cent. more than the rate at which the money was raised by the Superintendent, whichever is the greater.

S. 70 (which re-enacts the provisions of s. 9 of the New Zealand State-guaranteed Advances Amendment Act, 1912) makes special provision with respect to loans raised for the purpose of constructing and maintaining roads and bridges in outlying districts. It provides for setting aside in each of the ten years after the passing of the Act (out of the moneys available for advances to local authorities by the State Advances Office), the sum of £250,000 to be applied for the purposes mentioned. It further provides that for the first ten years of the term of any loan granted out of the moneys so set aside the Minister of Finance shall, towards the repayment of the loan, pay to the Superintendent out of the Consolidated Fund an amount equal to 1 per cent. of the loan, and in each of the next five years shall pay an amount equal to ½ per cent. thereof.

Advisory Board of Agriculture.—The Board of Agriculture Act, 1913 (No. 32), provides for the establishment of a Board of Agriculture, consisting of not more than twelve members appointed by the Governor, of whom not more than eight may be appointed on the recommendation of agricultural and pastoral societies. The functions of the Board are to advise the Minister of Agriculture on matters relating to the development of agricultural and other rural industries in New Zealand. In particular, but without limiting the application of the term "agricultural and rural industries," the functions of the Board extend to the following matters:

(*a*) the aiding, improving, and developing of agriculture and all rural industries, including fruit-culture, horticulture, forestry, dairying, the breeding of stock and poultry, bee-keeping, and the flax industry;

(*b*) the prevention and control of disease in stock and poultry, the control of rabbits and noxious weeds, and the dipping of sheep;

(*c*) the establishment of agricultural colleges and agricultural education generally; and

(*d*) the aiding or facilitating of the carriage and distribution of produce.

State Advances to Settlers.—The State Advances Act, 1913 (No. 34), repeals the New Zealand State-guaranteed Advances Act, 1909, and its amendments, and re-enacts (with amendment) so much of the same as relates to the administration of the Advances Office and its business of making advances to settlers and to workers. Those provisions of the Act of 1909 that have not been re-enacted in this Act have been incorporated in other more appropriate Acts. For example, some of the provisions have been incorporated in the Local Bodies' Loans Act, 1913; financial provisions relating to opening up lands for settlement have been included in the Land

Laws Amendment Act, 1913; provisions relating to the raising of loans for the acquisition and settlement of native freehold land are re-enacted in the Native Land Amendment Act, 1913; and other provisions are re-enacted in the Mining Amendment Act and in certain local Acts.

Parliamentary Elections.—The only provision of general interest in the Legislature Amendment Act, 1913 (No. 36), is the repeal of the Second Ballot Act, 1908, which provided for a second ballot at elections of members of Parliament in cases where no candidate at a first ballot secured an absolute majority of the valid votes recorded. So far, nothing has been substituted for the repealed provisions.

Encouragement of Fruit-Growing.—The Fruit-Preserving Industry Act, 1913 (No. 40), authorises the Minister of Finance to raise not more than £25,000 in any year. The moneys so raised are to be available for the purpose of making advances for the establishment of cold stores for fruit and of fruit-canning works, and otherwise for the assistance of the fruit-growing industry.

Judicature.—S. 2 of the Judicature Amendment Act, 1913 (No. 41), provides for the appointment of one additional judge of the Supreme Court at a salary of £1,800 per annum. This brings the total number of judges up to eight. S. 4 relates to the computation of the superannuation allowances payable to judges on their retirement. Ss. 5 to 10 make new provisions as to the constitution of the Court of Appeal. The said Court is to consist of two divisions (each of five members), the members of each division being judges of the Supreme Court. A judge may be a member of both divisions at one and the same time. The divisions are, as a rule, to sit separately, but the Governor in Council may authorise the two divisions to sit together for the purpose of determining any appeal deemed to be of special difficulty or importance.

Stamp Duties.—The Stamp Duties Amendment Act, 1913 (No. 42), provides, *inter alia*, for payment of stamp duty on instruments of exchange at the same rate and in the same manner as if these instruments were conveyances on sale of the exchanged properties.

Boots and Shoes.—The Footwear Regulation Act, 1913 (No. 43), prohibits the manufacture or sale within New Zealand of boots or shoes unless the soles are made wholly of leather, or unless they are legibly stamped with a description of the materials of which the soles are made.

Post Office.—By s. 2 of the Post and Telegraph Amendment Act, 1913 (No. 44), the limit of interest-bearing deposits in the Post Office Savings Bank is increased from £600 to £1,000.

S. 8 prohibits the erection or maintenance for hire or profit by private persons of any electric line of communication by telephone except with the precedent consent of the Governor in Council.

S. 9 provides for the regulation of the use within New Zealand waters of wireless telegraph apparatus on merchant ships not registered in New Zealand.

Naval Defence.—The Naval Defence Act, 1913 (No. 45), provides for the establishment in New Zealand of a Naval Force, and for that purpose authorises the Governor to appoint officers and issue commissions. The Naval Force is to be raised and maintained by voluntary enlistment only, enlistment being for a prescribed period not less than two years. The Naval Force so raised is to be subject to the Imperial Naval Discipline Acts and the King's Regulations and Admiralty Instructions for the time being in force.

In time of war the Naval Force (including the ships, vessels, or boats acquired for naval defence purposes) is to be at the disposal of the Imperial Government.

S. 15 provides that members of the Naval Force may be required to serve for training or on any naval service either within or beyond the limits of New Zealand.

S. 17 provides for the training of members of the New Zealand Naval Force on board any ship of the King's Navy, or of the Navy of any part of the British Dominions, or in any naval establishment or school connected with any such Navy.

S. 20 provides for the transfer of ships, officers, and men from the New Zealand Naval Force to the Naval Forces of any other part of the British Dominions.

S. 21 provides for the establishment of a New Zealand Royal Naval Reserve.

The Naval Defence Act, 1908, and the Naval Subsidy Act, 1908, are repealed.

Educational Reserves.—The Education Reserves Amendment Act, 1913 (No. 48), authorises the Governor in Council to determine certain leases of education reserves or endowments in cases where the land comprised therein is required for subdivision. In any such case the lessee is entitled to compensation in the same manner as if the land had been taken for a public work under the Public Works Act, 1908.

Patent Law.—The Patents, Designs, and Trade Marks Amendment Act, 1913 (No. 49), provides for the sealing of patents after the prescribed time where, in consequence of the neglect or failure of the applicant to pay any fee, the patent has not been duly sealed. The machinery provisions are similar to those of the principal Act relating to applications for the restoration of lapsed patents.

Unlawful Intimidation and Incitement to Crime.—The Police Offences Amendment Act, 1913 (No. 52). S. 2 of this Act is designed to prevent unlawful intimidation, and is a modification of the provisions of s. 7 of the Conspiracy and Protection of Property Act, 1875, of the United Kingdom. S. 3 makes punishable on summary conviction by a fine not exceeding £20, or by imprisonment for not more than three months, the offence of inciting others to the commission of offences.

Housing.—Ss. 31 and 32 of the Counties Amendment Act, 1913 (No. 53), authorise county councils to erect dwellings on land acquired or appropriated by them for the purpose, and to let or sell such dwellings in the prescribed manner to workers employed in any kind of manual labour.

Native Laws.—Ss. 3 to 13 of the Native Land Amendment Act, 1913 (No. 58), provide for the constitution of Native Land Court districts, and for the appointment of judges, registrars, and commissioners of the Native Land Court to exercise jurisdiction within the district for which they are respectively appointed.

S. 14 provides for the compilation of a register of the owners of all native freehold land and of their respective interests.

Ss. 15 to 52 relate to the constitution and functions of Maori Land Boards. By s. 23 it is provided that the judge and the registrar of each Native Land Court district are to constitute the Maori Land Board of the district. The judge is the president of the Board, and may appoint any native or European assessor or assessors to act in respect of any matter before the Board for its determination.

Ss. 44 to 62 deal with the partition among the several native owners of their interests in land held by them in common. By s. 44 the judge of the Native Land Court is required from time to time to report to the Native Minister as to the native lands within his district that are suitable for settlement and are not used by their native owners, and thereupon the Minister may apply to the Native Land Court to investigate the title and to partition the said land among the several owners. In making such partition the Court is required, so far as possible, having regard to the interests of the owners, to subdivide the said land into such allotments as may be conveniently disposed of by the native owners to an individual purchaser or an individual lessee. Ss. 48 to 53 make provisions for the adequate roading of lands heretofore or hereafter partitioned. S. 55 permits of two or more adjoining blocks being treated as one for the purpose of partition of interests and subsequent subdivision for settlement.

Ss. 64 to 68 provide for succession to the interests of a deceased owner of native land. If application for a succession order is not made within six months after the death of a native owner, the judge of the Native Land Court in the district in which the land is situated may proceed to inquire as to the successors of the deceased owner, and may thereupon make such orders in the matter as he thinks fit. S. 67 provides for the disposal by sale or lease (with the consent of a majority of the owners affected) of land held by native owners in common in cases where the relative interests are so small that, in the opinion of the Court, partition is not justified.

Ss. 70 to 80 make provision for the limitation of the area of native land to be beneficially held by one person.

Ss. 82 to 93 relate to the alienation of native freehold land by the owners thereof, and to the confirmation by the Maori Land Board or Native Land

Court of instruments of alienation. S. 90 provides for the removal into the Supreme Court of applications for confirmation in cases involving questions of difficulty. S. 92 authorises the payment to the Public Trustee or a Maori Land Board, in trust for the natives entitled thereto, of any unpaid purchase-money payable in respect of the alienation of any native land. By s. 93 provision is made, in the case of land held under lease, for the protection of the tenant's interest in improvements where application is made for the confirmation of an instrument of alienation.

S. 96 authorises the Governor in Council to revest in the native owners any land held in trust for those owners by a Maori Land Board, on application in that behalf being made by a majority of the native owners beneficially entitled thereto.

S. 99 empowers the Court, on the application of any person interested, to order an investigation and audit of the accounts kept by the Committee of Management appointed by the incorporated owners of any native land under Part XVII. of the Native Land Act, 1909.

Ss. 107 to 119 extend the powers of the Crown with respect to the acquisition by purchase or lease of native land. When any native land subject to a valid lease is so acquired by the Crown by way of purchase, the lessee is entitled to receive a renewable lease under Part III. of the Land Act, 1908, in lieu of the existing lease, or to acquire the fee-simple of the land comprised in his lease subject to the prescribed terms and conditions.

S. 113 authorises the Minister of Finance to raise £500,000 in any year for the acquisition by the Crown of native lands. Similar provisions were formerly contained in Part VII. of the New Zealand State-guaranteed Advances Act, 1909.

S. 115 provides for the lease of native lands to the Crown, with an option to purchase the freehold on terms to be specified in the lease. Lands so leased may, subject to the conditions expressed in s. 116, be subleased in the same manner as if they were Crown lands under the Land Act.

Education.—S. 14 of the Education Amendment Act, 1913 (No. 60), provides for an increased rate of salary to be paid to certain of the teachers in public schools. The other amendments relate wholly to matters of administration.

Police Force.—The Police Force Act, 1913 (No. 61) repeals the Police Force Act, 1908 (which was a re-enactment of the Act of 1886), and makes better provision for the establishment, maintenance, and discipline of the police force.

Local Government.—The Municipal Corporations Amendment Act, 1913 (No. 62), amends in several important particulars the provisions of the Municipal Corporations Act, 1908.

S. 6 provides for a biennial election of mayors in lieu of an annual election, as at present. In the case of a casual vacancy within twelve months after an election, a fresh election is to be held; if a casual vacancy

occurs at any other time the borough council appoints a mayor to hold office until the next ordinary election.

S. 27 authorises borough councils to establish services for the conveyance of passengers and goods (otherwise than by railway or tramway).

S. 34 authorises borough councils to supply electricity to persons residing beyond the limits of the borough.

S. 52 authorises the erection and sale or lease of workers' dwellings on land to be acquired or appropriated by a borough council for the purpose. Similar provisions are contained in the Counties Amendment Act (No. 53).

The other amendments are not of general interest.

Customs Law.—The Customs Act, 1913 (No. 63), repeals the Customs Law Act, 1908 (which was a consolidation of the Customs Act, 1882, and its amendments), and makes more adequate provision for the collection of duties of customs. Few material alterations of the law are made except in matters pertaining to administration. In the provisions relating to *ad valorem* duties it is provided that such duties are to be based on the fair market *cash* value of the goods in respect of which the duty is payable instead of on the *credit* value as hitherto.

Mining.—S. 3 of the Mining Amendment Act, 1913 (No. 66), authorises the making of advances by the Government for the purpose of promoting irrigation works in arid localities.

S. 4 authorises the Minister of Finance to raise £20,000 in each financial year for the purpose of assisting in the development of the mining industry. The corresponding provisions contained in Part V. of the New Zealand State-guaranteed Advances Act, 1909, are repealed.

Ss. 9 and 10 relate to claims for compensation in respect of the auriferous or argentiferous value of or in respect of minerals or precious stones on or under land that has been legally taken for the purposes of public works. In no such case is compensation payable unless the claim is first established by a judgment of the Supreme Court.

Divorce.—The Divorce and Matrimonial Causes Amendment Act, 1913 (No. 69). S. 3 empowers the respondent in divorce proceedings to apply for an order making absolute a *decree nisi* for the dissolution of a marriage, and jurisdiction is conferred on the Court to deal with such application as if it had been made by the petitioner.

S. 4 provides that the evidence of parties in matrimonial proceedings may be taken by affidavit only with the leave of the Court.

S. 5 repeals certain provisions of the principal Act allowing appeals to the Privy Council (in lieu of to the Court of Appeal of New Zealand) from decisions of the Supreme Court on petitions for dissolution or nullity of marriage.

S. 6 provides that a husband who (while separated from his wife by mutual consent or judicial decree) habitually and without cause leaves her without reasonable maintenance shall, for the purposes of the provisions of

the principal Act relating to the grounds for divorce, be deemed to have deserted her wilfully and without just cause or reasonable excuse, and to have left her so deserted.

Workers' Compensation.—Ss. 7 and 8 of the Workers' Compensation Act, 1913 (No. 70), permit of compensation cases being heard and determined in a Magistrate's Court instead of in the Court of Arbitration.

S. 9 provides for the payment of compensation-moneys to the Public Trustee in trust for the persons entitled thereto.

S. 10 provides that the right to recover compensation or damages in respect of an accident to a worker shall survive notwithstanding the death of either the worker or his employer.

S. 13 gives to the employees of the Crown the same right to recover compensation or damages in respect of accidents as is possessed by the employees of private persons.

Solicitors.—S. 14 of the Law Practitioners Amendment Act, 1913 (No. 72), empowers the Governor by Order-in-Council to make regulations for the audit and inspection of the trust accounts of solicitors. The other provisions are of local interest only.

Monopolies affecting Agricultural Implements.—The Monopoly Prevention Amendment Act, 1913 (No. 73), extends the provisions of Part I. of the Monopoly Prevention Act, 1908 (relating to the price of agricultural implements), until December 31, 1915, on which date the said provisions lapse unless in the meantime they are again extended.

Industrial Disputes.—The Labour Disputes Investigation Act, 1913 (No. 75), relates to disputes between employers and workers who are not for the time being bound by an award or industrial agreement under the Industrial Conciliation and Arbitration Acts.

It provides for conferences of parties with a view to securing an amicable settlement, or in the alternative for the investigation of disputes by Labour Disputes Committees consisting of representatives of both parties to the dispute. Before a strike may lawfully take place a ballot of the workers affected is to be taken by the Registrar of Industrial Unions, and the result of the ballot is to be publicly notified. On the lapse of seven days after the publication of such result the workers are free to strike whatever the result of the ballot may have been. Provision is also made for taking a ballot of the workers affected, during the continuance of a lawful strike, on the question as to whether or not the strike shall be maintained, or on any other question relating to the strike, and for the publication of the result of the ballot.

Similar provisions are made to apply in the case of lock-outs of employers.

Agreements entered into by employers and workers to whom the Act applies may be filed in the Court of Arbitration and enforced as if they were industrial agreements under the Industrial Conciliation and Arbitration Act.

12. FIJI.[1]

Ordinances passed—30.

Diseases of Plants.—No. 6 provides for the prohibition of importation of trees, plants, fruit, or seeds or any portions thereof to be determined by the Governor in Council; for the making of regulations for the inspection of trees, plants, etc.; for preventing the introduction of diseases; for preventing the outbreak or dissemination of diseases; for fumigation; for spraying or other treatment of growing or other trees or plants; for the destruction of condemned trees or plants and seeds; and generally for carrying into effect the provisions of the Ordinance; and for the appointment of inspectors.

Companies.—No. 13 provides for the registration of companies, audit of accounts, winding up of companies, etc., and is based on the Companies (Consolidation) Act of 1908 of the United Kingdom.

Forests.—No. 14 makes provision for proclamation of forest reserves, appointment of forest officers, and the making by the Governor in Council of regulations with regard to any forest reserve.

Pensions.—No. 17 makes provision for the withdrawal of pension to a public officer who, without the permission in writing of the Governor, becomes, on his final retirement from the service of the Colony, a director or a servant in the Colony of any company the principle part of whose business is any way directly concerned with the Colony.

Prisons.—No. 20 repeals the Prisons Ordinance, 1884, and enacts fresh provisions more in consonance with those in force in other Colonies, and provides for the "mark" system, not hitherto in force in Fiji.

District Commissioners.—No. 27 substitutes for the title of Stipendiary Magistrate the title of District Commissioner, as being more appropriate to the duties of that officer, whose work is as much that of an executive as of a legal nature, and provides that, unless the Governor otherwise orders, those officers shall be *ex-officio* sub-accountants and deputy commissioners of stamps. It provides also that the Governor may from time to time assign to any District Commissioner such further powers and duties of any department as may to him seem necessary or expedient in the public interest.

Currency Notes.—No. 30 provides for the issue of Government currency notes and for the appointment of a Board of Commissioners of Currency. It provides that a currency note shall be legal tender in the Colony for the amount expressed therein; for a note guarantee fund; for an investment and depreciation fund; for keeping of accounts; and for such other matters as are generally to be found in an Ordinance of the kind.

[1] Based upon the Annual Report, Cd. 7622-2, presented to Parliament.

13. WESTERN PACIFIC.

King's Regulations—9.

Native Labour.—Provision for the control of the recruiting and employment of native labourers by British subjects in the New Hebrides is made by No. 1. Recruiters must have a licence and no native is to be employed in recruiting. No female, and no male under sixteen, may be recruited with the exception of adult females, who may be recruited for employment in domestic service for renewable periods of not more than three months provided that they are not removed to places more than ten miles from their homes. Directions are included as to the vessels engaged in recruiting, and the master or owner is responsible for securing that there is an adequate supply of medicines, medical comforts, disinfectants, and water. The regulations also embody particulars of the contract of employment and the method of treatment of natives, including the quantity of rations and the supply of tobacco. Sunday labour is forbidden. The Saturday half-holiday is enacted and not more than nine hours' work required on other days of the week. A system of inspection endeavours to secure obedience to the regulations.

Opium.—The importation, storage, and disposal of opium, morphine, cocaine, and similar drugs into and in the Protectorates of the British Solomon Islands and the Gilbert and Ellice Islands is prohibited by No. 2, except for medicinal purposes.

Protection of Birds.—No. 8 forbids the exportation of birds or the plumage or skins of birds from the Protectorates of the British Solomon Islands and the Gilbert and Ellice Islands.

Timber Rights.—The rights of natives are protected by No. 9 by giving to the Resident Commissioner a control over the licences granted by natives to non-natives for felling trees.

V. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.[1]

Trustee Securities.—Act No. 6 facilitates the investment of trust and other funds in the United Kingdom in Government securities of the Union.

The Act applies to all securities created or issued by, or on behalf of, the Governor-General, to which the Colonial Stock Acts, 1877-1900, of the

[1] In the compilation of this review considerable use has been made of the section (pp. 48–51) of the Report relating to the Self-Governing Dominions prepared in the Colonial Office (Cd. 7507).

Imperial Parliament apply, and which are, for the time being, registered in the United Kingdom in accordance with the provisions of those Acts.

Whenever by the final judgment, decree, rule, or order of any Court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable by the Governor-General in respect of any Union Government securities, the Minister of Finance shall forthwith cause an equivalent sum to be paid out of the funds in the hands of the High Commissioner for the Union in London without any further appropiation than the Act.

Excise.—Act No. 7 provides for the case of proposed new excise duties, or the increase of excise duties in the Union. As soon as any Minister of State, acting for or on behalf of the Governor-General, gives notice of a resolution for the imposition of an excise duty, or the increase of any excise duty, the duty, or the increased duty, shall be levied and accrue on all articles which have not been delivered from the manufacturer's or dealer's stocks from the time when the notice of intention to move the resolution was given to the House. The payment may, however, be deferred on the giving of a bond, with a surety. If the Parliament imposes a duty or increases the duty, the payment secured by the bond shall then become due. The right of requiring a bond shall not last longer than until the end of the session of Parliament in which the resolution was brought forward, and the right may be terminated sooner by the order of the Governor-General if it appears that Parliament declines to sanction the proposed duty or increase of duty. If any excise duty is imposed, or the rate of existing duty is increased on any article, and the article is, in pursuance of a contract made before the day on which the increased duty takes effect, delivered after that day, the seller of the article may, in the absence of any agreement to the contrary, recover a sum equal to any amount paid by him by reason of the duty or the increase of the duty. A similar privilege is accorded to the purchaser in the case of a decrease in the duty.

Forestry.—Act No. 16, which is to come into force on a date to be fixed by the Governor-General by proclamation, regulates forest tenure, forest demarcation, and the protection of forests within the Union. The Act does not apply to any lands set aside for the occupation of natives at the date of the establishment of the Union, but any provisions of the Act may be applied to such lands by the Governor-General with such modifications as may be necessary for the preservation of forests and the protection of trees. Any such lands as have already been certified or demarcated, and duly declared to be forest reserve, shall be subject to the provisions of the Act which relate to demarcated forests.

The Act, save where special mention is made, does not apply to private forests, but any provisions otherwise inapplicable may be made to apply by proclamation of the Governor-General on the written request of the owner.

Chap. 1 of the Act authorises the Governor-General to acquire, on payment of compensation, any land required for the due conservation of Crown forests and plantations, or for the prevention of the erosion of the soil by rivers, wind, stream, or rain, or any land on which exists a sand drift which is, or threatens to become, a cause of public danger. Whenever the Minister deems it expedient that any area shall be demarcated as a forest, the angles must be marked out by cairns or poles. A report on the demarcation, with a plan, must be prepared by a forest officer and deposited at the office of the magistrate of the district in which the area is situated. A notice must be issued stating the intention of the Minister to declare the area a demarcated forest, and any person desiring to object to the demarcation may apply to a superior Court, which may prohibit the demarcation, either in whole or in part.

The alienation of any servitude over a demarcated forest is forbidden, except in the case of the sale of forest produce or the grant of grazing rights or small exchanges of land.

It is also provided that no servitude of woodcutting or grazing, or other right of like nature, can be acquired by prescription within or over any portion of a Crown forest. Where such servitudes exist, the Governor-General may make regulations specifying the quantities of wood to be cut, and the season for cutting, preventing, for temporary periods, grazing over particular areas, prescribing the areas in respect of which the rights shall be exercised in particular years, and limiting the removal of wood to domestic and farm requirements and prohibiting removal for the purposes of sale.

The Governor-General is also authorised to prohibit the exportation from the Union of any kind of wood, and specifying conditions under which wood or other forest produce shall be felled and collected in case any special permission to export is granted.

Any trees or forest produce may be specially reserved in any Crown forest, in which case it shall be unlawful for any person to fell, remove, or injure any such tree or forest produce, except on the authority of a licence or permit.

The Governor-General is also authorised to make regulations regarding the felling, cutting, taking, or working of any forest produce; the grazing and depasturing of animals in forests; the clearing, cultivation, or the breaking up for cultivation or other purposes of forest land; the manner in which pasturage in forests shall be used; restrictions upon residence or encampment in forests; hunting or fishing in forests, subject to the laws relating to the preservation of game, birds, or fish; the framing of tariffs for the disposal of forest produce, and the issuing of licences and permits; the offering of trees for selection; qualifications entitling persons to be regarded as *bonâ fide* woodcutters; and he may, by such regulation, prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of £10, or in default of payment imprisonment with or

without hard labour for a period of one month, or such imprisonment without the option of a fine, or both such fine and imprisonment.

It is lawful, however, for the Minister to offer for selection at a stated price any trees the property of the Crown which may at the time be available for sale. Applicants for trees under this provision must satisfy the Minister that they are *bonâ fide* woodcutters.

Chap. 2 provides for the penalties for offences, such as the removal or injury to trees, the kindling of fires, the setting fire to trees, grass, etc., within one mile of a demarcated forest without giving notice of his intention to do so, and also for minor offences.

It is also made an offence wilfully to trespass in a private forest or to kindle fires if the owner has forbidden the kindling, or to cut, destroy, or remove any forest produce, or strip off bark or injure any beacon, boundary mark, or fence. Forest officers are given the power of police officers with regard to offences committed against the Act, and special powers are given for the detention of any person in possession of forest produce who cannot give a satisfactory account of how he became possessed of that produce.

Customs.—Act No. 9 provides for the management of the Customs of the Union. It repeals and consolidates the separate Customs laws of the former Colonies, and it provides a comprehensive code for the management of the Customs of the Union.

Chap. 1 provides for the appointment and the powers and duties of the Commissioner of Customs and the Customs officers; it authorises the appointment of ports and landing places. It further provides that, whenever any Minister of State, acting for or on behalf of the Governor-General, shall give notice of a resolution for the increase of the rate of Customs duty payable on the importation of any goods, the officers of the Customs Department, under instructions from the Governor-General, may refuse to permit the entry of the goods for consumption, except on the person liable to pay the proposed duty entering into a bond, with a surety, conditional on the payment of increased duty. If Parliament confirms the increased duty, the person who has entered into the bond must then pay. The right of requiring a bond shall not exist longer than the end of the session of Parliament in which that resolution has been brought forward, and the right may, by order of the Governor-General, be terminated sooner if Parliament declines to sanction the proposed increase of Customs duty. If the duty is altered, whether by increase or decrease, after any contract has been made, the seller, in the absence of special provision, shall be entitled to the increase if it takes place before the clearance or delivery of the article, and similarly the purchaser shall be entitled to the decrease.

Chap. 2 contains a list of goods the import of which is prohibited, including goods with false trade-marks, base coin, prison-made and penitentiary goods, and unauthorised prints of works copyright in the United

Kingdom or any British possession. The Governor-General is further empowered to restrict the importation of opium. All importers must make due entries, and regulations are laid down as to the formalities of the entry inwards, the warehousing of goods in bonded warehouses, etc.

Chap. 3 requires the report of wrecks and the payment of duties in respect of wreck, and all wreck brought or coming into the Union is made subject to the same duties and regulations as imported goods of the like kind.

Chap. 4 imposes penalties for smuggling.

Chap. 5 empowers the Governor-General to prohibit by proclamation the export or carrying coastwise of arms, ammunition, military and naval stores of any description. The proclamation may specify any country or place to which exportation shall be prohibited in order to prevent any such articles being used against His Majesty's Imperial or Colonial forces, or any of His Majesty's subjects or any forces acting in co-operation with His Majesty's Imperial or Colonial forces.

Chap. 6 regulates the entry outwards of ships bound from the Union to foreign parts, and provides for the payment of export duties in cases in which export duties are imposed.

Chap. 7 regulates coasting trade, which is defined to include all trade by sea from any one part of the Union to any other part, excluding, however, vessels arriving from a port outside the Union, or clearing from a port in the Union for a port outside the Union.

Provision is made for the delivery by a coasting vessel before departure of an account to the proper officer of Customs. This account, dated and signed by this officer, shall be the clearance of the ship for the voyage, and a transire for the goods expressed therein, but general or special transires may also be given, and special transires may be issued to vessels exclusively engaged in fishing, sealing, or whaling, or collecting or unloading guano. The transires shall be delivered within twenty-four hours of arrival at the port of discharge to the proper officer of Customs. No goods may be carried in any coasting ship except such as are laden to be carried coastwise at some port in the Union duly authorised by the Governor-General. Coasting cargo may be conveyed by ships with cargo on board from or to any place outside the Union under such regulations as to the lading, unlading, and conveyance of the coasting cargo as may be necessary for the protection of the revenue.

Chap. 8 deals with legal proceedings, penalties, and forfeitures. Civil proceedings for penalties are barred after a lapse of three years. No appeal shall lie against any judgment touching any penalty or forfeiture unless it is prosecuted within twelve months of the date of judgment. The Governor-General, or, by delegation from the Governor-General, the Commissioner, may restore seizures and mitigate any penalty or forfeiture on such terms and conditions as shall appear to him to be proper; if the owner shall accept the terms and conditions so prescribed, he shall not be entitled

to institute or maintain any action for damage on account of seizure or detention.

Chap. 9 contains general and miscellaneous provisions, and includes a section providing that every importer and exporter shall be responsible for any act committed by any person on his behalf, whether the said act was done within or outside the Union.

Finance.—No. 10 is a somewhat complicated measure adjusting the financial relations between the Union and the Provinces. Briefly stated, the effect is to transfer certain revenues to the various Provinces, and in addition to grant subsidies equal to half the normal or recurrent expenditure. The Province of the Cape of Good Hope receives an additional sum equal to half the expenditure by local bodies, while the Provinces of Natal and Orange Free State receive additional grants of £120,000 and £100,000 respectively.[1]

Adulteration of Liquor.—The object of No. 15 is to prohibit the use of certain substances in wine, spirits, and vinegar, following upon the lines of previous legislation passed in order to secure the maintenance of a satisfactory standard in the wine and liqueurs produced in the Union. Bottles are to be clearly labelled so as to designate the nature of their contents, and other provisions made for the protection of the purchaser.

Immigration.—A uniform law for the Union in respect to immigration is contained in No. 22. An Immigration Department is established to deal with all matters connected with the prevention of entrance of prohibited immigrants. The list of persons who come within the description of prohibited immigrants includes any person deemed by the Minister on economic grounds or on account of standard or habits of life to be unsuited for the requirements of the Union; any person unable, by reason of deficient education, to read and write any European language, including Yiddish, to the satisfaction of an immigration officer; any person likely to become a public charge; any person deemed to be an undesirable inhabitant or visitor owing to information received through official or diplomatic channels; any prostitute or any person, male or female, living on or receiving the earnings of prostitution or any *procureur*; any person convicted of one of a number of offences; any physically afflicted person unless accompanied by some one able to give security for his permanent support; or any person afflicted with an infectious disease, other than tuberculosis. A tuberculous person is required to have a permit to enter the Union issued under prescribed regulations. There is also a long list of persons who are not to be regarded as prohibited immigrants. It includes, *inter alia*, persons of European descent who are agricultural or domestic servants, skilled artisans, mechanics, workmen or miners, who have entered the Union under approved conditions. Owing to the difficulty of securing that immigrants do not enter through some spot where they may escape detection, it is enacted that they do not thus become exempt from the

[1] For the complete figures, see *Colonial Office List*, 1914, p. 318.

operation of the Act, nor even if they slip through the meshes by some oversight. The burden, too, of proving that a person has not entered or remained in the Union or any Province in contravention of this Act shall lie upon such person. Although the Indians do not receive particular mention in the Act, it is well known that they were the chief anxiety of the Government in dealing with the subject. The Minister of the Interior in introducing the Bill forcibly stated the intention to be to exclude Asiatics, but owing to representations the method adopted in previous bills was modified so as to follow more closely the lines of Canadian legislation instead of the Australian, which had served as the model for the original drafts.

Executors and Administrators.—A long Act (No. 24) consolidates and unifies for the whole Union the law relating to the administration of estates of deceased persons, minors and lunatics, and of derelict estates, and to regulate the rights of beneficiaries under mutual wills made by persons married in community of property.

Protection of Children.—A uniform law for the protection of children is embodied in No. 25. Child is defined to be any person under the age of sixteen and includes infants, which means any person under the age of seven. The Act follows the lines of legislation in the United Kingdom and other parts of the British Empire. In the industrial schools the head "shall be styled the housefather or housemother according to the circumstances, and the children detained therein shall be styled pupils."

Native Land Laws.—The effect of No. 27 is described fully in the report by Mr. E. L. Matthew, Law Adviser to the Department of Justice, printed in the Journal (*supra* pp. 9-16).

2. CAPE OF GOOD HOPE.

[*Contributed by* EDWARD MANSON, ESQ.]

Ordinances passed—19; Public, 12; Local, 7.

Supply.—Nos. 1, 2, 11.

Religious Drama (No. 3)—For better or worse the taste for religious plays and exhibitions is growing. This Ordinance empowers the Administrator to prohibit the performance of such plays or picture-palace exhibitions, where they are calculated to give offence to the religious convictions or feelings of any section of the public, under a penalty of £100.

Motor-Cars (No. 8).—Cape Colony is late in framing its code of regulations for motors, but the delay has the advantage that it can legislate in the light of the experiments of other States. "Motor-car" in the Ordinance includes motor-bicycles with or without a side-car, but not trains or traction engines. Fire brigade motors are exempted from the regulations of the Ordinance.

The maximum speed on public roads is thirty miles, but this is only

permissible three miles outside any municipal area, and is further qualified by penalties for reckless driving. Here, as in other cases, legislation must model itself on local conditions.

Protection of Wild Flowers (No. 10).—In England we protect wild birds, but we still allow the beauty of our lanes and countrysides to be wantonly deflowered by tramps and hawkers. Cape Colony in this Ordinance puts a check on these spoilers. Every person selling or in possession for purposes of sale of any wild flowers, ferns, or shrubs without a licence is liable to a penalty of £1. Furthermore, the Administrator may by proclamation prohibit either indefinitely or for a fixed period the gathering, uprooting, or damaging of any particular flowers, ferns, or shrubs.

Public Entertainments (No. 14).—Legislators will have to study more and more in the coming time the influence of public entertainments as a social factor. This Ordinance is a recognition of that truth. It requires a licence for theatrical and music-hall amusements, concerts, travelling shows, combination shows, circuses, bioscopes, skating rinks, boxing and wrestling competitions, and professional sports' meetings. It is not necessary that the State should adopt a puritanical attitude towards such amusements, but it has to reckon with the temptation of the promoters to pander to the lower tastes of human nature, and very properly to retain a control in the interests of good taste and decency.

Horse Racing and Betting (No. 15).—The scheme of this Ordinance is to create certain racing areas to which racing is to be confined, and to license races thereon for certain days. This is not to interfere with ordinary sports, gymkhanas, and exhibitions.

Totalisators may be licensed subject to conditions, *e.g.* the commission is not to exceed 10 per cent. of the gross takings, no person apparently under twenty-one is to bet, and the licensee must make returns on oath to the Administrator.

Betting is prohibited except by totalisator on a race area. A bookmaker's business is made an offence under the Ordinance, and so is the publication of betting odds.

Technical Education (No. 16).—This is an Ordinance of considerable detail, dealing with the training of teachers, industrial and technical education, instruction in art and music, and the education of defectives.

Plant Protection: "Buchu" (No. 17).—This plant is not henceforth to be picked without a licence.

Religious Education in Schools (No. 18).—In every school under the control of a School Board (except schools of non-Christian designation) religious instruction in the terms of the syllabus, or catechism, scheduled to the Ordinance is to be given daily (under Standard IV.) by one of the teachers, the time of such teaching varying from a quarter to half an hour. Over Standard IV. it is to be given twice a week for half an hour. The catechism or syllabus comprises fifty-four questions and answers adapted to different

standards and is supplemented by a syllabus on Scripture lessons adapted in the same way.

Miscellaneous Ordinances.

Hospitals and Charitable Institutions.—No. 7 amends the Ordinance of 1912.

Public Holidays.—No. 6 amends the Public Holidays Ordinance (No. 34 of 1905).

3. NATAL.

Ordinances passed—11.

With the exception of Ordinances effecting small amendments and making financial provision the legislation is for the most part of a local and personal character.

Education.—No. 7 provides a system of retiring allowances for teachers for whom no provision for pension or superannuation is made under any other law.

Motors.—No. 11 provides for the registration of motor-cars and the licensing of motor-car drivers. Fourteen is the minimum age for the rider of a motor-cycle and seventeen for the driver of a motor-car or cycle-car. Steps are taken to secure before the issue of a licence that the recipient is competent to hold it, "and whenever practicable the examiners of an applicant for a licence shall include a member of a recognised automobile club." Convictions for driving at excessive speed cannot be obtained "upon the evidence as to rate of speed of one witness only, or if such evidence be based only upon opinion and not supported by measurements as to time and distance."

4. ORANGE FREE STATE.

Ordinances passed—9.

Motor-Cars.—No. 3 provides for the registration of motor-cars and the certification of motor-car drivers.

Local Government.—The whole of five Ordinances and the greater part of eight others are consolidated in No. 4, which is the longest Act of the session. It deals with the constitution and powers of local authorities, and its general provisions do not require detailed description. One detail may be noted. To the clause prohibiting councillors to contract with the council is added a provision that councillors may not act directly or indirectly as advocate, attorney, or law agent in any action by or against the council.

Hospitals.—No. 8 is a comprehensive Ordinance dealing with the establishment, maintenance, and management of public hospitals and kindred charitable institutions in substitution for the Act of 1908.[1] Hospital Boards

[1] No. 38 of 1908. See Journal, vol. x. p. 364.

appointed by the town councils and the Administrator are constituted for each district into which the Province is divided under the Ordinance. The Hospital Boards may be subsidised by the Government to the extent of 30*s.* for every £1 of the value of all voluntary contributions or gifts of money; £1 for every £1 of the value of all devises or bequests up to a maximum of £500, and £1 for every £1 received as fees from patients.

Education.—No. 9 revises the classification of schools and divides them into kindergarten, primary, secondary, training, and industrial. The kindergarten provides for children between three and seven years. Instruction is to be for not more than three and a half hours on five days in the week. Attendance is not compulsory and there is no corporal punishment. Children are not admitted into the primary schools under the age of six. Instruction is to be for at least four hours on at least five days in the week. The curriculum, which must include manual instruction, is varied and intended to meet the needs of all classes of the community. Corporal punishment is only to be administered "in cases of habitual and gross neglect of duty, disobedience, obstinacy, or vice." Backward scholars of more mature age are to be advanced as rapidly as possible by confining the curriculum to the more essential subjects of instruction. The object of the secondary schools is to provide boys and girls with the education required to proceed to a university, to occupy responsible positions in the civil service, and in commercial and industrial life, to become teachers and to qualify for the "secondary school certificate" or for the "senior certificate" of the Cape University. Scholars before entering are required to possess a primary school certificate. Instruction is for at least one hour a day longer. Every secondary school is to have a science laboratory, furnished as far as possible with the best modern educational appliances. Numerous amendments are made in earlier legislation as to the qualifications and training of teachers and their classification and remuneration.

5. TRANSVAAL.

Ordinances passed—9.

Public Entertainments.—No. 3 prohibits the performance of any play or other form of dramatic entertainment, or the exhibition of any bioscopic film or other picture in any theatre, hall, or other building or place which in the opinion of the Administrator is calculated to give offence to the religious convictions or feelings of any section of the public.

Motors—No. 6 regulates the registration of motor-cars and the licensing of drivers upon similar terms to those of the Orange Free State Ordinance.[1]

Pounds.—Three laws are repealed and the law consolidated in No. 7 in respect to the establishment of pounds, the appointment and duties of

[1] See *supra*, p. 86.

poundmasters, the impoundment of stock, the fees, and the disposal of impounded stock.

Shop Hours.—6.30 is fixed by No. 9, consolidating previous legislation, as the hour for closing shops, except Wednesdays (1 p.m.) and Saturdays (7 p.m.). In certain urban areas shops may be kept open until 9 p.m. on Saturdays. When Sunday follows or precedes a public holiday, vendors of viands may open until 9 a.m. on the second of the days. On December 25 and December 31 shops may be open until 11 p.m. unless the day be a Sunday, when the permission applies to the preceding day. For each year of continuous service a shop assistant is entitled to leave of absence for twelve clear working days in a consecutive period, or fourteen if the shop opens on Sundays, provided that the employer may fix the time of leave for the different shop assistants with reasonable regard to the exigencies of his business; provided further that, unless the employer shall have granted to any shop assistant his period of leave at an earlier date, the said leave shall be granted within one month of the termination of any year's continuous service. There are the customary exemptions for places of refreshment, chemists', and other shops.

6. SOUTHERN RHODESIA.

Ordinances passed—17.

Transfer of Businesses.—By No. 4, whenever there is a change in the style, constitution, personnel, or premises of a business, a notice of it is to be advertised within fourteen days in three issues of the *Gazette* and a local newspaper of the district where the business is carried on. No business which has been transferred shall continue to be carried on under a licence in the name of the transferor.

Prevention of Corruption.—No. 7 deals with secret commissions upon the lines of English legislation.[1]

Fires.—Precautionary measures are enacted in No. 9 to prevent the spread of fires. A zone known as a fire-guard may be created on the petition of an actual majority of owners or occupiers along the common boundary of not less than 15 feet on each side as prescribed by the Administrator. The operation known as "counter-firing" for the protection of life and property is authorised by the Ordinance.

Miner's Phthisis.—No. 10 prohibits the employment of persons suffering from miner's phthisis, or tuberculosis of the lungs or respiratory organs, in mines.

Water Rights.—No. 13 composes the whole law relating to the use of water, the constitution and financing of irrigation boards for combined irriga-

[1] 1 Ed. VII. c. 34. See *Legislation of the Empire*, vol. i. p. 135.

tion schemes, and the establishment of water courts. It also defines the various kinds of servitudes and the rights under them.

Elections.—In No. 14 the law is set out as to the limit of expenses at elections, and the prevention of certain corrupt practices.

Natives.—The law as to the issue of passes to natives to travel from one place to another, or to seek work, is amended and consolidated in No. 15.

7. NORTHERN RHODESIA.

Proclamations issued—15.

High Court.—Previous regulations and proclamations are incorporated in No. 1, setting forth the jurisdiction of the High Court. Nothing is to deprive the Court of the right to observe and enforce the observance of any law or custom existing in the Territory provided that it is not repugnant to natural justice, equity, and good government. Such laws are to be applicable particularly in cases between natives and especially in matters relating to marriage, to the tenure of real or personal property and to inheritance. In criminal procedure "the wife or husband of the party charged with any offence may be called as a witness for the prosecution if the party charged or his wife or her husband belonged to a tribe which practises polygamy and if the marriage of such party admits of plurality of wives." In criminal cases the Court may promote reconciliation, and encourage and facilitate the settlement, in an amicable way, of proceedings for assault, or for any other offence of a personal or private nature not amounting to felony and not aggravated in degree, on terms of payment of compensation or other terms approved by the Court, and may thereupon order the proceedings to be stayed. Any judge, upon an application within fourteen days of judgment, may review any decision given by him, unless notice of appeal has been given, and may reopen the case in any way and reverse his previous decision.

Magistrates.—Complementary to the Proclamation dealing with the High Court is No. 2, consolidating the enactments relating to the Magistrates' Courts. In matters involving native law or custom the magistrate may be assisted by one or more assessors. Private persons are required to assist the police or act on their own account in pursuing and arresting offenders against the law and are indemnified against any action for anything that they may do in that direction.

Native Commissioners.—By No. 3 Native Commissioners are appointed to have jurisdiction among natives corresponding to that of magistrates.

Native Cattle.—Previous legislation is repealed by No. 7, and the law on the subject of the purchase and export of native cattle incorporated in it. No person other than a native may purchase any native cattle without first obtaining a permit, and another is required in order to export cattle.

Diseases.—No. 8 makes restrictions with a view to preventing the intro-

duction into the territory of cattle infested with disease, and No. 9 makes similar provision in regard to plants. No. 13 provides against epidemics of diseases among the inhabitants.

Brands.—No. 12 provides for registers to be kept of the brands of horses, cattle, sheep, and goats.

Public Holidays.—New Year's Day, Good Friday, Easter Monday, May 24, Whit Monday, King's Birthday, Rhodes' Day, and Founder's Day (*i.e.* the second Monday in July and day following), first Monday in August, Christmas Day, and the day following are appointed to be public holidays.

VI. WEST AFRICA.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

1. GAMBIA.

Ordinances passed—34.

Land-holding by Alien.—A special Ordinance (No. 1) enables Arnold Eugster to hold land in the Colony. The preamble recites that Arnold Eugster is a firm consisting of a private individual of that name, and that he is "domiciled" at Marseilles. His nationality is not disclosed. He is declared by the operative clauses to be a body corporate. He may hold land up to the value of £25,000; when that limit is reached, the Governor may order that he be not entitled to acquire any more, and any land in excess may be sold by public auction, the proceeds to be paid to the firm. If at any time any land belonging to the firm is found to have been conveyed or assigned to a person not capable of holding land in the Colony, the Governor may require it to be conveyed to a British subject, or in default sold by auction. A similar law (No. 5) is passed in favour of the firm of Barthes & Lesieur, whose members are domiciled at Marseilles.

Real Estate.—Real estate is (by No. 2) made liable to sequestration for payment of debts, in default of personalty.

Closing of Streets.—Streets in Bathurst may be closed by order of court on the application of the Colonial Engineer. Provision is made for compensation, and for appeal to the Supreme Court (Nos. 7 and 20).

Rating.—Churches, chapels, and schools, exclusively appropriated to religion or education respectively, are exempt from rating (No. 10).

Hospitals.—An Ordinance of 1901 (No. 13) gave power to the Governor to make regulations for hospitals, dispensaries, etc. Power is now given (by No. 12) to the Senior Medical Officer to make further regulations with respect to the duties of all officers below the rank of medical officers, and of all nurses, clerks, and other servants.

Opium.—The provisions of No. 15 are similar to those of the Sierra Leone Ordinance on this subject.[1]

McCarthy Island.—Provision is made (No. 16) for the administration of justice on this island, situate at the limit of navigation of the Lower Gambia, 150 miles from Bathurst. Though Sir C. Lucas describes it as "low-lying, swampy, and unhealthy," it is of some commercial importance. The Ordinance provides for the holding of Courts on the island, as occasion requires, by the Chief Magistrate, the Police Magistrate, a Travelling Commissioner, or two or more Justices of the Peace. Except when the Court is held by the Chief Magistrate or the Police Magistrate, legal practitioners are to be dispensed with.

Official Secrets.—The Official Secrets Act, 1911, which in terms extends to the Colony, is by No. 21 extended to the Protectorate.

Wireless Telegraphy.—An Ordinance (No. 26) makes provisions of control in terms which are now normal.

Native Labour.—Provisions for the regulation of contracts for the employment of native labour outside the Colony are made by No. 28, which follows African precedents. The engagement for service in foreign countries does not require to be specially sanctioned by the Secretary of State, as in South Nigeria; it must be to a country which has been declared by the Governor to be one to which emigration of labourers is lawful.

Public Loans.—General provisions are made for borrowing by inscribed stock or debentures by No. 29, which is in model form.

Customs Tariff.—Patterns and samples imported not for sale are exempted from duty; also motor cars and motor cycles (No. 31).

Pensions.—Pensions for widows and orphans of European public officers are provided by No. 34, which is in the same form as the Ordinance of Sierra Leone.[2]

2. GOLD COAST.

(i) COLONY.

Ordinances passed—19.

Opium.—No. 1 is in the same form as the Sierra Leone law.[3]

Native Labour.—The engagement of native labourers for service outside the Colony is controlled by an Ordinance (No. 5) which is drawn on the same lines as those of Sierra Leone[4] and Nigeria.

Employment of Women.—Ordinance No. 9 deals with the employment of women by night in industrial undertakings. It is interesting to find the subject receiving attention in the colony and is an example of the extent to which legislation regulating the conditions of labour is being passed in every

[1] See *infra*, p. 93.
[2] See *infra*, p. 94.
[3] See *infra*, p. 93.
[4] See *infra*, p. 94.

part of the Empire "Industrial undertaking" is defined as "any undertaking in which articles are manufactured or materials transformed," but does not include one in which (*a*) not more than ten men or women (? persons) are employed, or (*b*) only the members of the family are employed.

"Night work" is defined as "work in an industrial undertaking at any time within a period of eleven (or ten) consecutive hours, including the hours of ten o'clock in the evening and five o'clock in the morning"; and the Ordinance proceeds to enact that it shall not be lawful "to employ women in night work in this Colony." From 10 p.m. to 5 a.m. is a period of seven hours: the statutory period of eleven hours may thus begin at any time between 6 p.m. and 10 p.m., and end eleven hours ahead up to 9 a.m. Power is given to the Governor to restrict the period to ten hours, but no provision is made as to the hour at which the period of eleven or ten hours is to commence. The prohibition is against employment "at any time" within an undefined period of eleven hours.

The Governor in Council has power to make regulations for carrying out this Ordinance, but there seems to be nothing requiring, or capable of, regulation, the Governor alone having power under two sections of acting by Proclamation.

Wireless Telegraphy.—No. 15 on this subject is in model form.

Pensions.—No. 17 deals with pensions for widows and children of deceased European public officers. It is in the same terms as the Sierra Leone law.[1]

The other Ordinances amend existing legislation in small particulars.

(ii) ASHANTI.

Ordinances passed—8.

Motor Cars.—A comprehensive Ordinance (No. 1) deals with motor cars, motor cycles, and traction engines. Certificates of competency are required to be obtained by drivers of motor cars. No speed limit is in fact prescribed, but a limit may be fixed by the Chief Commissioner.

The other Ordinances effect small amendments of existing law or apply Gold Coast legislation.

See *infra*, p. 94.

(iii) NORTHERN TERRITORIES.

Ordinances passed—7.

Official Secrets.—The Official Secrets Act, 1911, is applied to the Territories by No. 1.

Validation of Criminal Proceedings.—In three cases prisoners had been convicted by the Provincial Commissioners of offences not included in the Chief Commissioner's order conferring his jurisdiction. The judgments in these cases are validated by No. 5.

3. SIERRA LEONE.

Ordinances passed—37.

Survey.—A survey is to be made of the city of Freetown, but is not to affect the boundaries of any private property (No. 1).

Patents and Trade Marks.—Hitherto patent rights have been created in the Colony by special Ordinances. Now general Ordinances framed on British precedent are passed dealing with patents and trade marks respectively (Nos. 3 and 17).

Opium.—An Ordinance (No. 4) is passed to give effect to the measures decided upon in the International Opium Convention signed at the Hague, January 23, 1912. The importation of "prepared opium," *i.e.* opium prepared for human consumption, is absolutely prohibited. Other derivatives of opium, including morphine and heroine, and also cocaine, may be imported only by sea, and must be deposited in a public store, from which they cannot be issued except to medical practitioners, dentists, or licensed druggists, on the written authority of the Principal Medical Officer. The operation of the Ordinance is enforced by penalties, search warrants, etc.

Gunpowder.—The Firearms, etc., Ordinance, 1908, is amended by a provision authorising the Governor to prohibit the sale of gunpowder in any part of the Protectorate for such period as he may think fit, "whenever it shall appear to be necessary for the preservation of the public peace" (No. 5).

Wireless Telegraphy.—Provisions for the control of wireless telegraphy in Ordinance No. 11 follow precedents already described.

Births and Deaths Registration.—The existing laws of 1906 and 1907 are repealed and consolidated with amendments in No. 13.

Protectorate.—The Protectorate Ordinance, 1901, is amended by a provision authorising the District Commissioner to inquire into or settle any matters having their origin in poro laws, native rites and customs, land disputes, etc. (No. 16).

Public Loans.—The existing laws of 1903 and 1904 are repealed and re-enacted with amendments (No. 19). The Ordinance makes full provision for borrowing by means of inscribed stock or debentures.

Street Noises.—A useful Ordinance on this subject applies only to Freetown (No. 24). Musical instruments and singing in streets are prohibited before 6 a.m. or after 10 p.m. Persons making noises, at any time of day, in streets by instrument or voice "to the annoyance or disturbance of any person," after being warned to desist, are liable to fine. Bands of music must not parade the streets without the permission of the Commissioner of Police.

Native Labour.—The recruiting of native labourers for service beyond the Colony is dealt with in an Ordinance which follows the lines of African precedents (No. 25).

Spirits.—The Governor may declare any part of the Protectorate to be a prohibited area, wherein spirits may not be imported except by non-natives for their private use, or by natives holding a special permit (No. 27).

Pensions.—Provision is made by No. 30 for pensions to widows and children of European public officers. The Government will bear a certain proportion of the management of the fund, to be determined by the Secretary of State. The rates of pension are somewhat complicated, varying according to the age of the husband and wife, and to the amount of contributions (if any) made by the husband while a bachelor. The deduction from the officer's salary as contribution to the fund is approximately 5 per cent.

Statute Law Revision.—The Attorney-General is authorised to prepare a revised edition of the Colonial Ordinances (No. 34).

Murder Societies.—The Human Leopard and Alligator Societies Ordinance, 1912, is amended by No. 35. If a person is tried for murder or certain other offences under the principal Act and is acquitted, the Court, if of opinion "that it is expedient for the security, peace, or order of the district in which the offence . . . took place, that such person should be expelled from such district," the Court is to send to the Governor a report of the case, and the Governor may thereupon order the person to leave the Colony or Protectorate or district.

Power is also given by No. 36 to the District Commissioner to report to the Governor that a person is dangerous to the peace of his district, and thereupon the Governor may order him to leave it, and to reside in some other district.

4. NORTHERN NIGERIA.

Proclamations passed—14.

Opium.—The same provisions controlling the importation of opium, as at Sierra Leone,[1] are made by No. 7.

Lands for Public Purposes.—A law of a few sections covers the ground of our elaborate Lands Clauses Acts. The Governor serves a notice that the land is required for public purposes. If for six weeks no claim is made by

[1] See *supra*, p. 93.

the owner, or if a claim is made and is disputed by the Governor, the compensation is determined by the Supreme Court. The written report of a Government surveyor is made evidence of the value, but the surveyor may be called as a witness by the owner.

Mines.—All previous proclamations and regulations are repealed by No. 10, which embodies the law as to the issue of licences for working mines and the grant of various kinds of leases.

Pensions.—A pension scheme similar to that of Sierra Leone,[1] for widows and children of European officers, is enacted by Nos. 12 and 13.

Some difficulty has been experienced in tracing the effect of some of the Ordinances, as references to previous legislation do not always state the date of the Proclamation referred to. One of the laws of 1913 refers to a preceding "Minerals Proclamation," another to a "Land and Native Rights Proclamation," without any reference to the year.

5. SOUTHERN NIGERIA.

Ordinances passed—27.

Native Labour.—No native labourer is to be engaged for service outside British dominions or protectorates without the express sanction of the Secretary of State. In other respects the engagement of natives for service outside the Protectorate follows African precedents. A native wishing to engage must have the consent of his chief. Permits for engagement of labourers are limited to three months; not more than the specified number may be engaged; security for payment of wages must be given; and penalties are provided for not repatriating the labourers, and other breaches of the regulations (No. 1). A section in place of s. 19 is substituted by No. 25, repealing a previous amendment made by No. 11.

Merchant Shipping.—An Ordinance (No. 2) authorising the detention of unseaworthy ships, whether British or foreign, follows the English precedent.

Another Ordinance (No. 3) provides penalties for disorderly conduct on board vessels, for unauthorised entry on ships, etc.

Opium.—No. 4 is an Ordinance in similar terms to that of Sierra Leone.[2]

Motor-Cars.—Power is given (No. 7) to the Governor to prohibit or restrict the driving of motor-cars on any specified highway which in his opinion is not fitted for such traffic, or to confine the driving of motor-cars to any specified highway.

Wireless Telegraphy.—No. 12 follows existing precedents.

Quarantine.—Regulations, which may be altered by Governor's regulations, make provision, in normal form, for the enforcement of quarantine.

Mines.—No. 17 sets forth the conditions upon which licences may be

[1] See *supra*, p. 94. [2] See *supra*, p. 93.

granted to work mines and the various kinds of leases which may be granted for a period not exceeding twenty-one years. No. 23 amends No. 17 in various details.

Prisoners' Evidence.—The English law is applied to the Protectorate by No. 19, and consequent repeals are made by No. 20.

Pensions.—Pensions for widows and children of European public officers are provided in an Ordinance (No. 22) in the same form as that of Sierra Leone.[1]

Wheel Tax.—Every description of conveyance from barrows and bicycles to motor cars are subject to a wheel tax within the sanitary district of Lagos. The amount, which is not stated, is to be fixed by the Municipal Board with the approval of the Governor.

VII. EAST CENTRAL AFRICA.

1. EAST AFRICA.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Ordinances passed—15.

Cruelty to Animals.—A comprehensive Ordinance (No. 3) on this subject takes the place of the Indian Act of 1890, which has hitherto done duty. Besides other familiar provisions, power is given to the Governor to make rules for insuring proper supplies of food and water to animals conveyed by ship and for protecting animals from unnecessary suffering during inland transit. The interpretation clause includes some unnecessary definitions: "Bull" includes cow, bullock, heifer, calf, steer, or ox; "pig" includes boar, hog, or sow; "cat" includes kitten.

Game.—The Game Ordinance of 1909[2] is amended by No. 6. Lions and cheetahs are now added to the schedule of animals whereof restricted numbers only may be killed. Four lions and two cheetahs may be killed under a licence, and no person may use poison, trap, or set gun for killing or capturing these animals, except on or near private land.

Sexual Offences.—The punishment for rape is increased to fourteen years and fine. Fornication between a native and a white woman is made an offence, each party being liable to five years' imprisonment with hard labour; procurers are liable to ten years' imprisonment and whipping: an owner or occupier of a house where such illicit connection is permitted, to five years.

[1] See *supra*, p. 94. [2] No. 19 of 1909. See Journal, vol. xi. p. 438.

Defilement of girls under sixteen years is punishable with imprisonment with hard labour for two years. Rape of a white woman by a native must be tried in the High Court (No. 7).

Theft of Stock or Produce.—Somewhat drastic steps are considered necessary to put a stop to thefts of farm stock and produce. Whenever a native is convicted of such theft, the Court "shall in addition to or in lieu of imposing any other punishment authorised by law sentence the native to pay a fine which shall in no case be less than ten times the value of the stock or produce" (No. 8).

Leper.—Ordinance No. 9 provides for the establishment, maintenance, and control of leper asylums.

Town Planning.—The Public Health Ordinance (No. 10) requires house-building within five miles of existing townships to be proceeded with under the control and supervision of the Board of Health. Where it is proposed to cut up the land for houses in plots of less than three acres, plans must be submitted and proper provision made for drainage, roads, etc.

Wireless Telegraphy.—No. 12 makes provision according to precedent.

Opium.—No. 14 differs from the model form employed by Sierra Leone and other West African Colonies, in so far as a certain relaxation is made in the case of persons who have acquired the "opium habit." During six months after the commencement of the Ordinance, a Medical Officer may allow the victim to possess a specified amount of opium not exceeding 4 oz. for a month.

2. UGANDA.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Ordinances passed—19.

Rabies.—When it is reported that rabies exists in any territory adjoining the Protectorate, the Governor may proclaim any district within the Protectorate as a district within the scope of rules to be made by him for the protection of the district and the extermination of the disease (No. 1).

Sleeping Sickness.—An area may be proclaimed as an "infected area," and rules may be made for the regulation of intercourse between infected areas and others, and for the control and regulation of all persons within infected areas (No. 3).

Tax Exemption.—On the recommendation of the Commissioner of Police, any member of the East African Police Force may be exempted from hut tax for one hut for life, or alternatively from poll tax for life.

A pupil over eighteen in a missionary society's school is exempt from poll tax if he has 200 days' attendance at school during a year (No. 5).

Game.—The Ordinances of 1906[1] and 1910[2] give place to a new law (No. 7). There are now to be only three classes of licences, viz. resident's,

[1] No. 9 of 1906. See *Legislation of the Empire*, vol. iii. p. 189.

[2] See Journal, vol. xii. p. 475.

visitor's, and fortnightly. A resident's licence costs Rs. 75, a visitor's Rs. 375, and a fortnightly, Rs. 30. Residents' and visitors' licences are in force for one year. Only one fortnightly licence can be taken out in the same year. Any licensee may be required to give security by bond up to Rs. 2,000. The numbers of animals (except the specially protected) which may be killed under residents' and visitors' licences are stated in the schedule, but the Governor may alter the figures from time to time. The holder of a fortnightly licence is similarly limited by the schedule, and he must not kill more than ten head in all.

The specially protected animals are the giraffe, elephant, and certain birds: for these, special licences are required. As was provided by the Ordinance of 1910, a licence for one elephant costs Rs. 150, for two Rs. 450. This licence is only granted to a person holding a resident's or visitor's licence. The rebate of Rs. 300 in favour of the sportsman who proposed to shoot two elephants and got only one, is abolished.

All licensees must keep a true register of their bag. The boundaries of the game reserves are given in the schedule, but these may be altered, and others added, by Proclamation of the Governor.

Immigration.—No. 10 provides for "immigration restriction and removal of undesirables." Any person (not being a native of the Protectorate) may be turned back if he is not in possession of visible means of support, if he has been convicted of murder, rape, theft, forgery, or if he is a lunatic or suffers from a contagious or infectious disease, or if, being a woman, she is a prostitute.

Trustee Investments.—Notwithstanding anything in the Trustee Act, 1893, trustees may place their funds on fixed deposit in such banks, or may invest in such securities, as the Governor may specify (No. 11).

Forestry.—The Forestry Ordinances of 1903 and 1905 are repealed by No. 15, which extends the provision hitherto made for the conservation of Crown forests and the produce found there.

Native Labour.—The Masters and Servants Ordinance (No. 19), which repeals previous legislation, is a comprehensive measure dealing with the relations of master and servant within the Protectorate, and also with contracts of service beyond the Protectorate. Power is given to the Governor to make rules whereby, *inter alia*, he may prohibit recruiting for foreign service from specified districts.

3. SOMALILAND.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Ordinances passed—6.

Native Labour.—The Regulations of 1901 are amended by an Ordinance (No. 1) which enacts that a labourer may enter into an agreement of service on behalf of himself and any dependant. "Dependants" include wife or

wives, sons under fifteen, and unmarried daughters under twenty-one. The rate of wages of the dependants must be specified, and the agreement must contain a provision that the labourer shall not be compelled to work or live apart from his dependants. Agreements may be required by the Commissioner to include terms requiring the employer to provide the labourer with free food and lodging during the service, and also to repatriate him a the end of the service.

Police.—No. 2 establishes a civil Police Force in the Protectorate.

Indian Contingent.—The Indian Army Act, 1911 (saving certain sections), is applied to the Indian Contingent.

Wireless Telegraphy.—No. 4 follows existing precedents.

Outlying Districts.—By No. 5 the Commissioner may declare any district to be closed to all travellers. No person may enter a closed district except natives of the district, public officers of the Protectorate, and persons holding a licence. In such licences the Commissioner may prescribe conditions and require the licensee to give security for the observance thereof. The Commissioner may also recover from the licensee any expenses incurred in rendering him assistance or in quelling disturbance.

4. NYASALAND PROTECTORATE.

Ordinances passed—11.

Game.—Amendments are made in the Game Ordinance, 1911,[1] in respect to the licences to kill elephants.

Highways.—Ordinance No. 2 (amended by No. 11) sets forth the duties of owners and occupiers of land adjoining the road in respect to drainage, overhanging trees, and the use of the adjoining property. It also protects Government property on the road and enacts:

> Whenever extraordinary expenses have been incurred by Government in repairing a public road by reason of the damage caused by excessive weight passing along the same or extraordinary traffic thereon, Government may recover in a summary manner from any person by whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the Court having cognisance of the case to have been incurred by Government by reason of the damage arising from such weight or traffic as aforesaid.

Official Secrets.—No. 3 is similar to English legislation relating to official secrets.

Immigration.—Comprehensive provisions respecting the entry of people into the Protectorate are made by No. 4. "Every person other than a native of Nyaslaland arriving in the Protectorate shall furnish to the Immigration Officer the particulars prescribed" in a form which requires "the name, sex,

[1] No. 2 of 1911. See Journal, vol. xiii. p. 416.

nationality, age, trade, or calling or purpose for which the immigrant is visiting the Protectorate, and place of residence, if any, outside the Protectorate." The Ordinance includes the customary provisions against undesirable immigrants.

Lunacy.—No. 5 makes provision for the care of lunatics.

VIII. SOUTH ATLANTIC.

[*Contributed by* R. Escombe Willcocks, Esq.]

1. FALKLAND ISLANDS.

Ordinances passed—6.

Wild Animals and Birds.—The Wild Animals and Birds Protection (Amendment) Ordinance (No. 1) repeals the Wild Birds Preservation Ordinance, 1908,[1] and the Wild Animals and Birds (South Georgia) Ordinance, 1912.[2] By the provision of this Ordinance, reindeer, kelp goose, thrush, wren, Scoresby's gull, kelp pigeon, red-breasted starling, and cinclodes (see Schedule 1) are entirely protected within the Colony. The following are partially protected, *i.e.* a close season has been fixed for the period between October 1 and the last day of February: Black-necked swan, widgeon, grey duck, teal, giant petrel, double-ringed plover, white or cos coroba swan, pintail duck, mallard, grebe, snipe, and king shag. The Governor is empowered to grant licences authorising any person to kill and to export the animals mentioned above, and in a dependency the stipendiary magistrate may grant the necessary licence. The Governor in Council has power to add to or to expunge from the schedules the names of any animal, and may alter the period of the close season.

Opium.—Like other parts of the Empire, the Falkland Islands passed an Ordinance (No. 3) to give statutory effect to the proposal of the International Opium Convention signed at the Hague.

Pensions.—The Pensions Amendment Ordinance (No. 6) sets out the conditions under which a retired officer may hold the directorship of a company operating in the Colony.

2. ST. HELENA.

Ordinances passed—5.

Wireless Telegraphy.—The Wireless Telegraphy Ordinance (No. 2), which repeals the Ordinance dealing with the same subject passed earlier in the year, is similar to other Acts and Ordinances recently passed in various

[1] No. 4 of 1908. See Journal, vol. x. p. 391.
[2] No. 8 of 1912. See Journal, vol. xiv. p. 198.

parts of the Empire. After defining "wireless telegraphy" the Ordinance provides that no person may "establish any wireless telegraphy station or instal or work any apparatus for wireless telegraphy in any place or on board any ship registered in the Colony except under and in accordance with a licence granted in that behalf by the Governor." Neither British nor foreign ships may work wireless apparatus in the territorial waters except in accordance with regulations made under this Ordinance.

Opium.—The Opium Ordinance (No. 5) repeals an Ordinance passed earlier in the year (No. 1 of 1913). Opium is defined as the *papaver somniferum* and any part thereof, and any product or preparation, alkaloid or derivative of the same, or of any part thereof, and any product or preparation of any such alkaloid or derivative which has been demonstrated by scientific research to be liable to similar abuse.

The importation and sale is prohibited under penalty unless a licence is procured from the Governor. An exception, however, is made for medical men using opium as a medicinal drug in accordance with the Medical Practitioners Ordinance, 1910.

IX. NORTH AMERICA.

1. THE DOMINION OF CANADA.[1]

Acts passed—Public General, 57; Local and Private, 152.

Banks.—No. 9 is a complete revision of the former Act, with numerous changes and additions intended for the greater protection of the public, as well as shareholders. A compulsory shareholders' and permissive Government audit are among the special features of the Act, which effects numerous changes in detail.

Criminal Code.—The Criminal Code Amendment Act (No. 13) amends the Criminal Code R.S.C. 1906, in a large number of important particulars such as the restriction of the sale and use of certain dangerous weapons without a permit, the offence of procuring for immoral purposes, the keeping of gaming or disorderly houses, neglect to provide for wife or children, and the making of false statements in writing with intent to obtain advances.

Exchequer Court.—No. 17 amends the Exchequer Court Act, by making provision for an appeal to the Exchequer Court by an applicant for a patent from an adverse decision of the Commissioner of Patents at any time within six months after notice mailed to him by registered letter, and gives the Court exclusive jurisdiction to hear and determine any such appeal.

Gold and Silver Marking.—No. 19 is an important Act intended to

[1] Extracted, by kind permission, from the report of the Legislation Committee of the Ontario Bar Association.

protect the public from fraud in the manufacture or sale within Canada of articles made from gold or silver or plated with either of these precious metals.

Railways Claims.—No. 20 amends the Government Railways Small Claims Act by providing for claims against his Majesty not exceeding $500 arising out of the operation of the Intercolonial Railway to be made in a Provincial Court, having jurisdiction to this amount over like claims between subjects.

Parcel Post.—No. 35 provides for the establishment and maintenance in Canada of a parcel post system for conveyance of parcels of all kinds, including farm and factory produce, subject to such exceptions and regulations as may be made by the Postmaster-General.

Indeterminate Sentences.—The chief amendment to the Prisons and Reformatories Act by No. 39 provides for special power of sentencing certain persons convicted of crimes to imprisonment for indeterminate periods.

Judiciary.—An Act (No. 28) to amend the Judges Act, among other provisions, fixes the salary of County Judges in Ontario at $3,500 for the Judge of the County Court of York, and at $3,000 per annum for all other County Court judges. Such judges are also compulsorily retired on attaining 75 years of age, or they may resign after thirty years of service on the Bench, in either case retaining their full salaries for life.

Judicature.—No. 50, respecting the Superior Courts of the Province of Ontario, in effect substitutes the words, "a Divisional Court of the Appellate Division of the Supreme Court of Ontario" for the words, "Court of Appeal for Ontario," and the words, "High Court Division of the Supreme Court of Ontario" for the words, "High Court of Justice for Ontario," where references are made thereto in Acts of the Parliament of Canada.

An Act (No. 51) to amend the Supreme Court Act defines the meaning of final judgment; gives power to the Court in admiralty cases to call in the aid of one or more assessors specially qualified and try and hear an appeal wholly or partially with their assistance. It fixes three sessions of the Court a year, commencing the first Tuesday in February, second Tuesday in May, and second Tuesday in October, subject to change by the Governor in Council or the Court on publication in the *Canada Gazette* of four weeks' notice thereof.

Foreign Relations.—As affecting Canadian foreign or international relations, mention may be made of the Japanese Treaty Act (No. 27) and the West Indian Trade Agreement Act (No. 56). The former, with certain reservations, confirms a Treaty of Commerce and Navigation signed between the United Kingdom of Great Britain and Ireland of the one part, and the Empire of Japan of the other part, in April 1911, which may be usefully referred to, to ascertain the rights, privileges, and limitations of Japanese subjects in this country, as well as of British subjects in the Empire of Japan.

The latter Act confirms an agreement of April 9, 1912, by representatives of Canada on the one part, and of the West Indian Colonies on the other, and establishes a preferential trade compact extending over a numerous list of articles.

2. ALBERTA.

[*Contributed by* J. S. Henderson, Esq.]

In 1913 there were two sessions of the Alberta Legislature. The legislation of each session is dealt with separately.

First Session.

Acts passed—Public, 21; Private, 67.

Legislative Assembly.—No. 2 provides that the Legislative Assembly shall be composed of 56 members to represent the electoral districts mentioned in the schedule, each district to return one member, except the district of Edmonton, which is to return two members.

Direct Legislation.—No. 3 enables the Legislature to declare with reference to any Act that it shall not come into force until the ninetieth day after the close of the session during which the same is passed. Electors may petition for a reference of any Act or part of an Act to a vote of the electors, and when a petition of this nature is presented the operation of the particular Act is to be further deferred until the vote of the electors has been taken thereon. Electors may also petition for a proposed Act to be enacted. The Act also provides machinery for carrying into effect this method of legislation.

Mines.—No. 4 is the Mines Act. It requires a register of employees to be kept by the owners, agent, or manager of every mine. It restricts juvenile and female labour, and prescribes the time when any one may be employed below ground. Provision is also made as to outlets from mines and as to the necessity for managers having certificates granted under the Act. The payment of wages to mine employees at or in any hotel or place where intoxicating liquor is sold or in any house of entertainment, office, garden, or place belonging thereto or connected therewith is prohibited. Inspection of mines is also provided for, and other precautions insisted upon for the safety of employees.

Local Government.—No. 5 is the Village Act. It enables the Minister of Municipal Affairs for Alberta to issue an order erecting into a village any portion of the Province the area of which is not more than 640 acres and which contains not less than 25 separate buildings. Each village is to be governed by a village council consisting of three members annually elected by a general vote of the electors. The powers of the council are set out in detail.

No. 7 amends the Rural Municipality Act in numerous details.

No. 8 amends the Towns Act in respect of certain definitions. It also enables the Minister to alter the name of any town upon a petition of the majority of the council.

Private Ditches.—No. 6 is the Private Ditches Act. It deals with the construction of ditches, their cost and the method in which they are to be constructed, their maintenance, etc.

Statute Law Amendment.—No. 9 is the Statute Law Amendment Act. It effects a large number of amendments in a long list of Statutes.

Bulk Sales.—No. 10 is an Act to regulate the purchase, sale, and transfer of stocks of goods in bulk. It requires the purchaser of stocks of goods in bulk to demand, and the vendor to supply, a statement verified by statutory declaration, giving the names and addresses of all creditors of the vendor and the amount due to them, failing the giving of which, the sale is to be deemed fraudulent and void as against the vendor's creditors, unless the proceeds of the sale are actually applied by the vendor in paying his creditors without giving them any preference except such as is provided for by law or previous contract. The duty of the purchaser on getting the statement from the vendor is to pay the purchase money, or a sufficient amount thereof as will satisfy the vendor's creditors, to an official assignee to be distributed among the creditors; if he fails to do this he is liable to the vendor's creditors. The Act is not to apply if the vendor produces and delivers to the vendee a written waiver from a certain proportion of the creditors, nor does the Act apply to sales by executors, etc., for the benefit of creditors.

Agricultural Schools.—No. 11 deals with the establishment and organisation of schools for the purpose of teaching practical and scientific farming, household economy, and domestic sciences in connection with each of the demonstration farms owned by the Province.

Co-operative Associations.—No. 12 provides for the incorporation of these associations and as to their duties and obligations.

Building Trades Protection.—No. 14 is an Act for the protection of persons employed in the construction of buildings and excavations. Every municipality is to appoint an inspector to enforce the Act. Unsafe apparatus is not to be used in the erection or demolition of buildings; scaffolding is to be fenced, and where it is suspended from an overhead support, it is to be so secured so as to prevent it swaying to and fro. The Act contains further minute provisions intended to secure the safety of workmen.

Farm Machinery.—No. 15 is the Farm Machinery Act, which provides that what the Court decides to be in the particular circumstances unreasonable provisions in agreements shall not be binding on the purchaser of farm machinery. Notwithstanding anything contained in any agreement to the contrary, the vendor is to be responsible for his agent's representations made during the negotiations of sale; and all machinery shall be sold as warranted and guaranteed to be made of good material, to be properly constructed, and to be in every way so designed and constructed as with proper care and use

to ensure reasonable durability. The Act does not apply to secondhand machinery.

Insurance.—No. 16 is an Insurance Act[1] dealing with the obligations of insurance companies as to being licensed, as to the deposit of securities, as to the furnishing of annual statements, etc.

Thresher Employees' Lien Act.—No. 17 gives to employees in connection with threshing machines priority of action for their wages against the earning of the machines. Notice of claim must be served.

Town Planning.—No. 18 deals with the preparation and approval of town planning schemes.

SECOND SESSION.

Acts passed—Public, 29; Private, 37.

Statute Law.—No. 2 amends in various details a series of statutes. *Inter alia* it amends the Game Act by enabling the Minister to require the purchaser of a game licence to wear a button, provided by the Department, displayed in a conspicuous place on his coat whenever hunting under the licence.

Unearned Increment on Land.—No. 10 requires, upon the registration under the Land Titles Act of any transfer of land, a tax of 5 per cent. on the increased value of the land over and above the value thereof according to the last preceding value, excluding in all cases the cost of improvements or development work actually made or done.

Commissioners for Oaths.—No. 11 provides that all duly enrolled barristers and solicitors of the Province shall be commissioners for taking affidavits in the Province.

Libel and Slander.—No. 12 is the Libel and Slander Act. It enacts *inter alia* that no action for libel contained in a newspaper shall lie unless the plaintiff has, within six weeks after the publication has come to his notice, given to the defendant a notice in writing specifying the statement complained of, and no action shall be begun within a certain time after the service of such notice, so that the defendant may have an opportunity of publishing a full apology. If the defendant admits the libel and pleads the publication of a full apology before action, and that the libel was published in good faith and without malice, the plaintiff shall be entitled to nominal damages of $5 and his costs up to and including defence, or he may proceed to trial, but in such latter event he is to only recover such actual damages as he has sustained, if the judge or jury find that the defences alleged are proved. In an action against a newspaper the defendant may obtain an order for security for costs if he can show that the statements complained of were published in good faith, and that the plaintiff is impecunious; but this does not apply to any action wherein the plaintiff sues *in forma pauperis*. An action against

[1] By No. 18 of the following session detailed amendments were made of this Act.

a newspaper for a libel contained therein must be commenced within three months after the publication has come to the notice or knowledge of the person defamed. In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery, it is not necessary to allege or prove that special damage resulted to the plaintiff from the utterance of such words. Provision is made enabling the defendant in such an action to apply for security for costs where the plaintiff is impecunious.

Infants.—No. 13 is the Infants Act. It deals with the custody and education of infants; their marriage settlements; the appointment, authority, and removal of guardians. It further deals with the adoption of children.

Juvenile Courts.—No. 14 provides for the formation of juvenile courts in every city and town, and in villages of over 500 inhabitants.

Education.—No. 15 is the School Grants Act; and No. 16 amends the School Ordinance, the School Assessment Ordinance, and the Tenancy Act.

Liquor Licences.—No. 17 amends the Liquor Licence Ordinance as to, *inter alia*, the number of licences to be granted, the number varying according to the population. It prohibits the giving, selling, or otherwise supplying by any person other than a licensee of intoxicating liquor to any one under the age of twenty-one; but this provision does not apply to the supplying of liquor to such a person by his parent, guardian, or physician.

Taxation of Companies.—No. 19 deals with the taxation of loan, land, and trust companies.

Companies.—No. 20 is the Companies Act. It enables the word "limited" to be dispensed with in the case of certain companies formed not for gain.

Brands.—No. 24 is the Brand Act. It deals with the branding of stock and provides for the keeping of a record of brands.

Game.—No. 25 amends the Game Acts. *Inter alia* it enables the Lieutenant-Governor in Council to make additional regulations in connection with the buying, selling, and exporting of big game, game birds, and fur-bearing animals reared on game or fur farms.

Threshers' Lien.—No. 26 gives the owner of a threshing machine or separator a lien for his remuneration upon the grain threshed; and he is empowered to retain a sufficient quantity of grain in order to enforce his lien.

Dangerous Animals.—No. 27 enables orders to be made against persons owning or having in their possession "any cross or dangerous or notoriously breachy or mischievous animal or animals" which are not so confined or restrained as to protect the public from injury or loss.

Woodmen's Lien.—No. 28 gives woodmen a lien on the logs or timber on which they have performed labour.

3. BRITISH COLUMBIA.

[*Contributed by* J. G. Archibald, Esq.]

Acts passed—Public, 83; Private, 15.

The legislation of the Province passed in the session of 1913, although more than usually extensive, is mainly of an amending character and presents few new departures.

Agricultural Associations.—The Agricultural Associations Act Amendment Act (No. 2) extends the scope of No. 6 of the Revised Statutes of 1911. The State assistance by way of grant and loan may henceforth be given to associations for the manufacture of cider, jams, pickles, spray mixtures, the drying and canning of fruit and vegetables, and for dealing in flour, feed, fertilisers, etc., and generally for any purpose approved by the Minister which has for its object the development of agriculture.

Treasury Board.—No. 5 creates a Treasury Board, to consist of the Minister of Finance and three other members of the Executive Council. The Board shall act as a committee of the Council in all matters relating to the public finances and shall have power to require accounts from all public officials. The Lieutenant-Governor may appoint an Auditor-General, who shall examine into and check the receipt and expenditure of all public moneys.

Companies.—No. 10 contains a number of amendments to the Company Act.[1] S. 5 gives the Registrar power to refuse a certificate of incorporation to any company which by its memorandum takes power to engage in any of the operations of a "trust company."

Constitution.—No. 11, the Constitution Act, increases from four years to five the term for which members of the Legislative Assembly are elected, and increases their allowance from $1,200 to $1,600.

Cremation.—No. 16 deals with the establishment of crematoria. The powers of municipal councils and companies incorporated under the Cemetery Acts now extend to crematoria. They are to be constructed according to plans approved by the Provincial Board of Health and require an annual licence. They cannot be located within 200 yards of a dwelling-house except with the consent of the owner and occupier. They must be operated in accordance with prescribed regulations and their scale of charges must be approved.

Improvement of Lands.—No. 18 gives facilities to co-operative action for the improvement of land by drainage, dyking, or irrigation. Owners of land in any district who desire to have works executed for any of the above purposes may petition the Lieutenant-Governor in Council to appoint Commissioners for the execution of the works. The petitioners themselves determine the extent of the proposed district, and must represent a majority

[1] R.S.B.C. 1911, No. 39.

in numbers and value of the landowners within the district selected. The Lieutenant-Governor may then by Order-in-Council constitute the district and appoint Commissioners. Funds for the execution of the works are obtained from taxes levied upon all the landowners of the district as so constituted.

Fire Escapes.—No. 24 increases the stringency of the Fire Escape Act.[1] *Inter alia*, it is enacted that all hotels, factories, workshops, schools, hospitals, assembly halls, theatres and the like, which are occupied at night, shall have all halls and stairways properly lighted and that a red light shall be kept burning at the point of egress to every fire escape.

Official Guardian.—No. 28 repeals and re-enacts with amendments the Official Guardians Act.[2] The Official Guardian shall act as guardian *ad litem* for all infants, and service upon him is good service upon any infant resident in the Province.

Highways.—No. 29 contains various minor alterations of the Highways Act [3] and new provisions dealing with extraordinary traffic.

Hospitals.—No. 30 amends the Hospital Act.[4] Henceforth private hospitals, *i.e.* those receiving no provincial aid, are made subject to licensing and inspection. A register must be kept of all patients treated.

Insurance Companies.—No. 33 provides regulations for insurance companies, other than those engaged in fire or marine insurance only. All such companies must be licensed, and deposit a specified sum in the hands of the Provincial Government. They are subject to periodical inspection and report. If at any time the assets of any company are insufficient to justify the continuance of the business or are such that it is dangerous for the public to insure in the company, the licence may be cancelled.

Local Improvements.—No. 49 is an important statute regulating the execution of local improvements by municipalities. The general principle adopted is that substantially the whole cost of improvements should be borne by the lands specially benefited. Accordingly such improvements can, in general, only be undertaken on the petition of a majority of the persons who will be affected, or if initiated by the municipal council, may be vetoed in like manner. Only in special cases, as for instance in the interests of sanitation or upon a resolution of a special majority of the council, is the general principle departed from.

Natural History Museum.—No 50 establishes a Provincial Natural History Museum.

Sale of Goods.—No. 65 regulates the sale of goods in bulk. "Any sale or transfer of a stock of goods, wares, or merchandise out of the usual course of business or trade of the vendor, or whenever substantially the entire stock-in-trade of the vendor is sold, or whenever any interest in the business or trade of the vendor is sold," is deemed to be a sale of goods in bulk. In all such

[1] No. 87 R.S.B.C. 1911.
[2] No. 97 R.S.B.C. 1911.
[3] No. 99 R.S.B.C. 1911.
[4] No. 102 R.S.B.C. 1911.

cases the purchaser must require from the vendor a statutory declaration of all his creditors for sums over $50. Should the purchaser pay over the purchase price without obtaining such a declaration, the sale will be deemed to be fraudulent and will be void unless all the creditors are in fact paid in full out of the moneys so paid over. When the purchaser is furnished with the declaration, he has two courses open to him; he may either pay the price to trustees for the benefit of the creditors, or he may obtain the consent of creditors representing 60 per cent. of the vendor's indebtedness and with such consent may pay it to the vendor.

4. MANITOBA.

[*Contributed by* J. G. Archibald, Esq.]

Acts passed—Public, 92; Private, 135.

The legislation for the session of 1913 is less than usual in volume, and is mainly amending in character.

Accidents to Workmen.—No. 4 amends the Building Trades Protection Act of 1912. In all cases of personal injury to a workman employed in or about a building or excavation, his employer must give immediate written notice to an inspector appointed under the Act, stating the date and cause of the injury.

King's Bench Practice.—No. 12 contains a great number of amendments to the King's Bench Act.[1] *Inter alia*, it is provided that in all actions for the foreclosure of the equity of redemption or for sale of any property, or for the foreclosure of the rights of a purchaser under an agreement for sale of land, the defendant may have the action dismissed on payment of the principal or instalments of principal then due, together with interest and costs, and that any provision in the mortgage or purchase deed for the acceleration of later instalments upon default in respect of an earlier one shall be disregarded.

Orientals.—By No. 19, no person shall employ any white woman or girl, or permit any white woman or girl to reside or lodge in, or work in, or save as a *bona fide* customer, to frequent any restaurant, laundry, or other place of business or amusement owned, kept, or managed by any Japanese, Chinaman, or other Oriental person.

Improvement of Homes.—No. 24 provides for the constitution and organisation of "Home Economics Societies," designed to stimulate interest in the improvement of individual homes in the Province.

Town Planning.—No. 50, the Plans Cancellation Act, provides means for withdrawing land or portions of land included in registered town-planning or building schemes, so as to free it from easements in favour of other land

[1] R.S. of Manitoba, 1902, No. 40.

included in the scheme or plan. The procedure must be initiated by persons holding 60 per cent. of the land affected, and is by petition to a county court judge.

Workmen's Compensation.—No. 11 amends the Workmen's Compensation Act of 1910 by substituting one week for two weeks as the minimum period of disablement which will entitle a workman to compensation under the Act.

5. NEW BRUNSWICK.[1]

Acts passed—Public, 45 ; Local and Personal, 66.

Constitution.—By No. 4 the constitution of the Executive Council is remodelled. The Lieutenant-Governor is authorised to appoint, under the Great Seal of the Province, from among the members of the Executive Council whom he is authorised to select, an Attorney-General, a Provincial Secretary-Treasurer, a Minister of Public Works, a Minister of Lands and Mines, and a Minister of Agriculture. In the case of illness or absence of any departmental head, the Lieutenant-Governor in Council may appoint another member of the Executive Council who is himself a departmental head to act in the place of the absent member. The salaries provided are $2,400 for the Premier and $2,100 to the five departmental heads. In addition, members of the Executive Council who are not in receipt of a salary shall receive for each meeting of the Council which they shall attend when the Legislature is not in session the sum of $12 per day and an indemnity for actual travelling expenses. The new departmental heads take the place of the Provincial Secretary, Surveyor-General, Chief Commissioner of Public Works, and Commissioner for Agriculture.

Finance.—No. 6 provides for a sinking fund to be used for paying off the public debt of the Province, the nucleus being formed of a sum of $78,653·48, being sums received from extraordinary resources. This sum is to be deposited and there shall be added to it such further sums as are derived from time to time from the sale of Crown lands or any public asset or utility.

Oyster Fisheries.—No. 13 carries into effect an agreement with the Government of the Dominion of Canada authorising the Government of New Brunswick to grant leases of the coast, rivers, and creeks of the Province for the cultivation and production of oysters. The Lieutenant-Governor in Council is authorised to survey barren bottoms which are considered suitable for the cultivation of oysters, and to lease them. The riparian owner is to have a preferential right to a lease in front of his own foreshore. Oysters are to be personal property of the lessee and officers are to be appointed to protect leased areas, their remuneration being provided by the persons

[1] Based upon the summary of legislation in the Report relating to the self-governing Dominions prepared in the Colonial Office (Cd. 7507).

in whose interests the appointments are made. In Part II. of the Act authority is given to lease certain areas to the Canadian Oyster Company, Limited, for a term of twenty years with a covenant for renewal on certain conditions.

Fair Wages.—No. 20 provides that a fair wage schedule shall be attached to and become a part of every contract of the Public Works Department, New Brunswick. The schedule shall contain the wages which are fair, usual, and customary at the time of the letting of the contract and in the locality in which the contract is to be performed.

Judicature.—No. 23 amends the Judicature Act and reconstitutes the Supreme Court, which is to consist of an Appeal Division consisting of the Chief Justice of New Brunswick and two judges, a Chancery Division consisting of three judges, namely, the judges of the Court of Appeal, and a King's Bench Division consisting of a Chief Justice and three other judges. It is specially provided that no judge may sit on the hearing of an appeal from an order, etc., made by himself, and provision is made for the style and rank of the Chief Justice of the Court of Appeal, who shall be Chief Justice of New Brunswick and shall have rank and precedence over all other judges of New Brunswick.

Fire Insurance.—No. 26 deals with conditions in policies of fire insurance and provides that certain conditions set out in the first Schedule shall be statutory conditions against any insurer, and that if any insurer desires to vary these conditions the variation must be expressly provided for. No such variation shall be in force unless the Court or judge before which a question relating to them is tried holds them to be just and reasonable to be exacted by the insurer. The Court is also authorised, if it considers it inequitable that the insurance should be deemed void by reason of imperfect compliance with any conditions as to the proof to be given to the insurer after the occurrence of fire, not to allow any objection to the sufficiency of such statement or proof as a discharge of the liability of the company.

Protection of Children.—No. 27 makes provision for the protection of children under the age of sixteen years. The municipalities, cities, and towns are authorised to establish and maintain temporary homes or shelters for the purposes of the Act, and to commit the care and management of such homes or shelters to any Children's Aid Society duly incorporated which has been approved by the Lieutenant-Governor in Council, and they may also pay to such a society such sums of money being not less than $1 a week for children committed to such institutions. Provision is made for the taking before a judge of any boy under fourteen or girl under sixteen years of age who is destitute or is guilty of improper conduct, who is employed in any place where intoxicating liquors are made, bottled, or sold, or is found associating with thieves, begging, etc. The judge is authorised to order delivery of such a child to a Children's Aid Society, while if he does not consider it a suitable case for such procedure he shall instruct the officer by

whom the child has been apprehended to take action under the criminal law of Canada. The judge may make an order for the payment by the municipality for the maintenance of the child in the institution and the municipality may recover the payment from the parent. The Children's Aid Society is required to obtain a suitable home for the child, and it is authorised to place a child in a home under a written contract during minority or under eighteen years of age providing for education, the teaching of a useful occupation, and kind and proper treatment. In every case the right is reserved to withdraw the child from the person having custody of it. Any Municipal Council or city or town may pass by-laws regulating the time after which children shall not be in a public place at night without proper guardianship, or the age under which children shall be required to be in their homes at the hour appointed. No Protestant child may be placed in a Roman Catholic institution or a Roman Catholic child in a Protestant institution or family. Provision is made for the trial in private of children, no person being permitted to be present other than the officers of the law and such other persons as the child may desire to have in attendance. Penalties are imposed for inducing any child to leave any home.

Liquor Licences.—No. 30 amends the Liquor Licence Act. Any person who has reason to believe that intoxicating liquor is being unlawfully imported into a place where the sale of liquor is prohibited may make information before a justice of the peace or police magistrate, who may issue a warrant for the seizure of the liquor, and who may order it to be destroyed if the person to whom it is addressed cannot prove that it is being imported for a lawful purpose.

Medical Act.—No. 33 requires the Council of Physicians and Surgeons of New Brunswick to admit to registration, on payment of the registration fee, any person desirous of practising in New Brunswick who is registered by the General Medical Council of Great Britain. Reciprocity has thus been established between the United Kingdom and the Province in the recognition of medical practitioners, an Order-in-Council having been issued under the Imperial Act of 1886, applying Part II. of that Act to the Province.

Miscellaneous.—Of the other Acts, No. 19 provides for the establishment of schools for instruction in the theory and practice of agriculture and allied subjects. No. 28 provides for the taxation of railway companies, which have hitherto been exempt.

6. NOVA SCOTIA.[1]

Acts passed—Public, 66; Local and Personal, 128.

Telephones.—No. 2 deals with rural telephone companies. It permits the formation of such companies by any three or more persons, and it prescribes

[1] Extracted from the Report relating to the self-governing Dominions prepared in the Colonial Office (Cd. 7507).

the contents of the memorandum of association of such companies. The subscribers to the memorandum may adopt a plan showing the lines which the company proposes to construct or acquire, and the points at which the company desires to connect its lines with an exchange or exchanges of another existing telephone company. The memorandum of association and the plan must be laid before the Board of Commissioners of Public Utilities established by No. 1, who shall give an opportunity to any other telephone company affected to be represented at the hearing of the application. If the Board approve the memorandum and plan, the company shall be incorporated, and it may construct its telephone lines according to a specification approved by the Board, and erect buildings on public highways. If the company desires to connect with other exchanges later on, the permission of the Board must be obtained, and opportunity must be given to any other companies affected to be represented. The Act prescribes the tolls to be paid to the telephone companies for the services which they render. Any person resident in the rural district served by the company shall be entitled to become a member on paying the same amount as that which each of the other members has up to the time been called upon to pay. No bonus or dividends may be paid by a company, but a subsidy of $20 per mile may be granted by the Government to each company in respect of its telephone line, and every company is exempt from all assessments, rates, and taxes on its telephone system and property.

Oyster Fisheries.—No. 6 regulates the oyster fisheries of Nova Scotia: the Governor in Council is authorised to cause surveys to be made of the beds of the bottoms of bays, rivers, harbours, or creeks, and to lay them out in plots, and to grant leases of those plots upon such conditions as may seem suitable. Power is also given to the owners of land to apply for leases of barren bottoms in front of the foreshore which they own. Any lease made may be re-granted for periods not to exceed ten years, and all oysters which are planted or grown on these lands shall be the personal property of the persons holding the lease. All rights conferred by leases granted under the Act shall be subject to the fishery regulations of Canada, and nothing in the Act shall prejudice the right of Canada to use and enjoy any harbour for purposes other than the cultivation of oysters.

Habeas Corpus.—No. 28, which contains miscellaneous amendments of the statute law, provides that if *habeas corpus* has once been refused by any one judge sitting alone, it shall not be lawful to renew the application before that or any other judge, except upon some new ground, but the prisoner may appeal from the order of any one judge to the Court *in banco*. It still remains open to the prisoner to apply, in the first instance, to the Court *in banco*.

Evidence.—The Evidence Act in Nova Scotia is amended by No. 37, which provides that no witness shall be excused from answering any question upon the ground that the answer to such question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of

the Crown, or of any person; provided, however, that if with respect to any question the witness objects to answer upon the ground that his answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown, or of any person, and if but for this section the witness would, therefore, have been excused from answering such question, then, although the witness shall be compelled to answer, yet the answer so given shall not be used or receivable in evidence against him in any criminal trial or any civil proceeding against him thereafter taking place other than a prosecution for perjury in giving such evidence.

Workmen's Compensation.—No. 47 amends the Workmen's Compensation Act in some details. No contract or release entered into by a workman shall be a bar to proceedings for the recovery of compensation under the Act, unless the consideration for the release was, in the opinion of the Court, ample and adequate, and not on the part of the workman improvident, but was just and reasonable, and not less favourable than if the workman had proceeded under the provisions of the Act, the burden of proof in all cases being thrown upon the employer. It is also provided that where a total or partial incapacity for work results from the injury, the weekly payment during incapacity shall be at a rate not exceeding 50 per cent. of the employee's weekly earnings during the previous twelve months, or such less period as he has been employed by that employer. The weekly payment shall not exceed $7, and the total amount of compensation for an accident shall not exceed $1,500, nor be less than $5.

Succession Duty.—No. 57 amends No. 13 of the Act of 1912 regarding succession duty by providing that the local situation in the United Kingdom of any property shall be determined in accordance with the law of England, with regard to the local situation of property within the meaning of s. 20 of the Finance Act, 1894.

7. ONTARIO.[1]

Acts passed—Public, 152; Public General, 88; Local and Personal, 64.

An extraordinarily large volume of legislature was passed during the session 3 & 4 George V. Many of the statutes were revisions of former Acts intended to take their place in the new revised edition.

Revision of Statutes.—No. 2 is an Act respecting the revision and consolidation of the statutes of Ontario. The preamble contains a useful historical and chronological record of the appointment, constitution, and work of the Royal Commission appointed for the purpose of revising and consolidating the statutes. It recites the progress of the work and the revision of portions already completed and enacted into law in the various annual

[1] Extracted by kind permission from the report of the legislation committee of the Ontario Bar Association.

statutes, and that it is in the public interest that the revision be completed as soon as practicable and before another session of the Legislature.

S. 1 provides that so soon as the revision is completed, a printed roll thereof, attested by the signatures of the Lieutenant-Governor and the Provincial Secretary, shall be deposited in the office of the Clerk of the Assembly, and s. 4 provides for the same coming into force under the name of Revised Statutes of Ontario, 1914, by proclamation of the Lieutenant-Governor in Council.

This statute then declares the powers conferred upon the Commissioners in connection with the revision, which are shortly: To make alterations in statutes to preserve a uniform mode of expression; to make minor amendments more clearly to declare the intention of the Legislature; to reconcile seemingly inconsistent enactments; to correct clerical or typographical errors; to improve the arrangement of the statutes, and to eliminate the obsolete, unsuitable, and useless, and submit such changes as might be deemed advisable in the public interest.

By s. 9 the Revised Statutes shall not be held to operate as new laws, but as a consolidation of Acts repealed and supplanted thereby.

S. 14 provides that the Act shall be re-printed with the Revised Statutes.

Statute Law Amendment.—That omnibus measure, the Statute Law Amendment Act, No. 18, contains the usual series of miscellaneous amendments to numerous Acts.

S. 1 refers to the disappearance of the old High Court by the substitution for these words where they occur in any Act of the Legislature, of the words: "The High Court Division of the Supreme Court of Ontario," this being an amendment to the Interpretation Act, 7 Ed. VII. No. 2.

A further amendment to this Act provides that every Justice of the Peace having authority in Ontario shall have the same powers to take and receive affidavits and affirmations as commissioners appointed under the Commissioners for Taking Affidavits Act.

S. 15 makes an important amendment to the County Courts Act, 10 Ed. VII. No. 30. This Act requires a defendant disputing the jurisdiction of the Court to give notice thereof in his appearance, and the amendment provides that such notice may be given either in the appearance or in the statement of defence. Corresponding changes are also made in the Act to give effect to this amendment.

The Arbitration Act, 9 Ed. VIII. No. 35, is amended by adding a subsection to s. 33 thereof, that when an award is set aside, the Court, or a judge setting same aside, may direct as to costs of the reference and the award.

An amendment also appears to the Execution Act, 9 Ed. VII. No. 47, by enabling the sheriff in executing a *fi. fa.* lands to sell lands of an execution debtor, including any lands held in trust for him by some other person.

Provision is also made under the Administration of Justice Expenses Act, in criminal matters for engaging and paying for special services of medical

practitioners, land surveyors, or any other person, subject to the approval of the Attorney-General; also for procuring the attendance of witnesses residing outside the Province and recouping them for loss of time and expenses in attending trial.

Ss. 24 and 30 of the Statute Law Amendment Act afford evidence of the discretionary powers vested in the Royal Commission for the revision of the statutes and of their advantageous exercise. These sections are transferred from the Judicature Act to the respective Acts to which they properly belong. One is the section enabling a mortgagor, not in default, etc., to sue or distrain in his own name; the other deals with the condition of relief from forfeiture in the case of a breach of a covenant in a lease to insure. These sections now take their place, the one in the Mortgages Act and the other in the Landlord and Tenant Act, and are omitted from the new Judicature Act.

The sections amending the Public Libraries Act illustrate the danger and inexpediency of hasty and ill-considered legislation. These amendments were intended radically to change the constitution of public library boards, but their effect was fortunately discovered before being enacted, and through the vigilance and exertions of the Ontario Library Association and of the Toronto Public Library Board in particular, a section was added providing that they should not come into force until a date fixed by proclamation.

The Ontario Companies Act as revised and re-enacted, 2 Geo. V. No. 31, is made the subject for three more pages of amendments. Private companies are now required to have the words "Private Company" upon their seals and share-certificates. Special provision is made to validate the payment of dividends by mining and kindred companies out of wasting assets.

Judicature Act.—The Judicature Act has been revised and re-enacted, and appears in No. 19 with numerous changes and amendments engrafted on the former Act.

Under s. 62, in Actions for Malicious Prosecution, the judge shall decide all questions both of law and fact necessary for determining whether or not there was reasonable and proper cause for prosecution.

S. 98, sub-s. (1), provides that every Local Registrar, Deputy Clerk of the Crown and Pleas, Deputy Registrar and Clerk of the County Court, shall, *ex officio*, be a special examiner for the county for which he is appointed.

Insurance.—An amendment (No. 35) to the Ontario Insurance Act, 1912, requires companies registered under this Act, except industrial companies, to send notices to the insured within one month of the date of the insurance contract, requiring the insured to produce evidence of age, and such notices must be sent out annually thereafter until age is proved, otherwise the companies will be deemed to have admitted same.

Railways.—The revision (No. 36) of the Ontario Railway Act extends to more than 300 sections, with amendments and new provisions too numerous to refer to in detail.

Electric Railways.—New and advanced legislation appears upon the Statute Book this year for the first time under the title of the Hydro-Electric Railway Act (No. 38), whereby power is conferred upon the Hydro-Electric Power Commission of Ontario and municipal corporations, with the sanction of the Lieutenant-Governor in Council, to enter into agreements for the construction, equipment, and operation of electric railways to be operated by electrical power or energy supplied by the Commission. The Act provides that where the construction and operation are to be undertaken by municipal corporations, the management must be vested in a Public Utilities Commission approved by the Lieutenant-Governor in Council and subject to the powers conferred by the Public Utilities Act.

Public Utilities.—The Public Utilities Act (No. 41) is practically a consolidation of various old statutes relating to public utilities redrafted and rearranged and with certain new features added. One part provides that the council of a municipal corporation owning or operating a street or other railway or telephone system may pass a by-law, with the assent of the electors, to provide for the entrusting of the construction of the work and management of same to a commission known as the Public Service Commission of the municipality interested, or an existing Public Utilities Commission established under this Act. The limitation of actions is six months from the commission of the act complained of, or in case of a continuation of damages, one year from the original cause of action. This provision is adopted from the Municipal Water Works Act R. S. O. 1897, and now applies to all public utilities under the Act.

Underground conducts for conveying any public utility along highways, etc., are required, except under certain conditions, to be laid not less than six feet from existing conduits of any other person, and notice of claim for damages for default in so doing must be given within one month after expiration of any calendar year in which the damages were occasioned.

Municipal Institutions.—Another important Act (No. 43) which has received the attention of the revising commissioners and legislature during the year is the Municipal Act. As now consolidated, it covers some 250 pages on the Statute Book, and has apparently received very careful revision, and numerous redrafted, amended, and new sections are now in evidence.

Hereafter any person at the time of a municipal election, liable to the corporation for arrears of taxes, will be ineligible to be elected to the council.

Under s. 249 a by-law passed by a council in the exercise of its powers and in accordance with the Act and in good faith shall not be quashed on the ground of its being unreasonable.

Under s. 259 a certificate of the clerk or assessment commissioner as to the prescribed number of electors having signed an application for the passing of a by-law where, under any Act, there is such requirement, shall hereafter be final and conclusive as to the matter referred to.

The powers of a council are further extended in expropriating or other-

wise acquiring or disposing of lands for municipal purposes under part 15 of the Act.

The liability of such corporations for damage from accidents occasioned by want of repair is limited by requiring that all actions for such damages, whether resulting from nonfeasance or misfeasance, shall be brought within three months from the time sustained.

The requirements as to notice of action remain the same as under the repealed Act of 3 Ed. VII.

A new provision is also added, making it a condition precedent to right of action that the claimant shall have suffered damages beyond what he has suffered in common with all others affected by the want of repair.

The necessity of cities and towns assisting in providing improved housing accommodation is recognised by the new enactment to encourage housing accommodation in cities and towns.

Dividends of such companies are limited to 6 per cent. per annum, and provision is made for municipal corporations guaranteeing their securities up to 85 per cent. of the value of the lands and improvements, subject to the assent of the electors, but with power for council to dispense with same if the project is approved by the Provincial Board of Health.

The Council has also representation in the management and control of the enterprise.

8. PRINCE EDWARD ISLAND.[1]

Acts passed—Public, 29; Private, 54.

Legislative Assembly.—No. 1 confers on the Legislative Assembly all the privileges enjoyed from time to time by the House of Commons of Canada. The Assembly is given the rights and privileges of a Court of Record for the purpose of punishing assaults on Members of the Assembly, obstruction, bribery, interference with the officers of the Assembly, tampering with witnesses, refusing evidence or papers, disobedience to warrants, the presentation of forged documents, falsifying of records, and similar matters. The penalty which may be imposed is imprisonment for such time during the session of the Assembly as may be determined. Power is given to any committee to examine witnesses on oath.

Elections.—No. 2 consolidates the legislation of the Province with regard to elections. The Assembly consists of 30 members: 15 of them are styled Councillors and 15 Assemblymen, the former being elected on a higher franchise than the others. The Legislature lasts for four years, and annual sessions are provided for.

Education.—No. 5 amends the Public Schools Act by providing that it

[1] Extracted from the Report relating to the self-governing Dominions prepared in the Dominions Department of the Colonial Office (Cd. 7507).

a school district fails to maintain a satisfactory school and provide for the education of the children within its bounds, it shall be lawful for the Board of Education to cancel the registration of the district, annul its corporate existence, and incorporate its territory with the adjacent district or districts. Provision is also made for the payment to each teacher of $1 per head for each child in average daily attendance during each half-year, the payment being conditional upon the continuous service of the teacher for the same school for a half-year, and on the report of the inspector that his work has been satisfactory. The amount paid is not to exceed $25 to any teacher in any half year. The salaries of teachers are to be paid monthly by cheques.

Intoxicating Liquors.—No. 12 amends the legislation regarding the use of liquor in minor details. Treating, etc., in public places is made punishable by a fine of not less than $5 and not more than $50. The second conviction of a vendor of selling intoxicating liquor contrary to the provision of the Liquor Acts shall cancel his right to sell liquor in any case whatever.

9. QUEBEC.

There was no legislation during the year 1913 in the Province.

10. SASKATCHEWAN.

[*Contributed by* J. S. Henderson, Esq.]

Acts passed—Public, 47; Private, 25.

Direct Legislation.—No. 2, the Direct Legislation Act, provides for the initiation or approval of legislation by the electors. In the case of all statutes passed in the future, except supply statutes, they are not to come into force till ninety days after the close of the session in which they are passed unless a contrary intention is expressly declared, and even in the case of a statute containing such a declaration its operation is to be deferred unless it has received a two-thirds majority of the votes of members voting on the third reading. Any number of electors being not less than 5 per cent. of the total votes polled at the preceding general provincial election, may petition the Lieutenant-Governor in Council requiring any Act, the operation of which is deferred, to be referred to a vote of the electors. When such a petition has been presented the operation of the Act in question is to be further deferred until the vote of the electors is taken thereon. Provision is also made for electors petitioning the Legislative Assembly to pass a proposed Act. Elaborate provisions are made for carrying out the voting in connection with petitions of this nature.

No. 3 provides for the submission to the electors of the question of the adoption of the preceding Act.

Railways.—No. 5 creates a department of railways for the Province.

Public Health.—No. 8 makes numerous alterations in the Public Health Act; in particular, in reference to expenses incurred in connection with epidemics. It also requires embalmers of dead bodies to be licensed; and forbids in certain cases the transportation of dead bodies where death has resulted from small-pox and certain other diseases. Where death has resulted from certain other diseases the transport of the bodies is subject to various regulations to prevent the spreading of disease.

Corporations.—Nos. 14 and 15 amend the Corporations Taxation Act by altering the scale of taxation payable by banks, telegraph companies, express companies, and companies owning, controlling, or occupying timber areas.

Land Titles.—No. 16 amends in various details the Land Titles Act as to furnishing plans, etc.

Female Labour.—No. 18 amends the statute passed in 1912 on this subject. That Act provided that no person should employ any white woman or girl or suffer her to be employed in any restaurant, laundry, or other place of business or amusement owned, kept, or managed by any Japanese, Chinaman, or other Oriental person. The present Act amends that statute by striking out the word "Japanese" and also the words "or other Oriental person."

Pool Rooms.—No. 21 regulates the conduct of pool rooms, billiard rooms, bowling alleys, and restaurants, and requires persons occupying these places to be licensed. Persons under the age of fifteen are not to be employed or be allowed to play any game in any pool room, billiard room, or bowling alley. These places are to be closed on Sundays.

Surveys.—Nos. 23 and 24 deal with surveys. They contain elaborate provisions with regard to land survey, impose a penalty for the removal of landmarks, and prescribe the obligations of surveyors, etc.

Private Detectives.—No. 25 requires private detectives to be licensed by the Attorney-General, and each must enter into a bond in the sum of $2,000 for the faithful, honest, and lawful conduct of his business. Employees of duly licensed detectives do not require a licence. Constables are not to act as private detectives.

Circuses and Travelling Shows.—No. 26 prohibits the exhibition of circuses, menageries, etc., unless the owner or manager thereof has obtained a licence. Constables are to have free access to all shows.

Local Government.—Nos. 27, 28, 29 and 30 amend in details the powers conferred by various Acts on municipalities.

No. 32 is the Local Improvements Act. It provides for the creation of local improvement districts, the rate of assessment, and the expenditure of taxes in making such improvements as may from time to time be required in the district. Certain lands are exempt from taxation under the Act.

Telephones.—No. 33 is the Rural Telephone Act. Five or more persons residing in any portion of the Province desiring to construct, maintain, and

operate a rural telephone system for their mutual benefit may petition the Minister of Telephones for the organisation of a company for this purpose. If satisfied that the petition should be granted, the Minister is to take all steps necessary to secure the incorporation and registration of the company. The Act then defines the powers of the company as to raising money, etc., and its duties.

Brands.—No. 38 is the Brand Act. It relates to the branding of stock, provides for the keeping of a record of all brands, and for the punishment of persons guilty of defacing or altering brands, etc.

Noxious Weeds.—No. 39 defines "noxious weeds" as including Canada thistle, provincial sow thistle, wild oats, stinkweed, wild mustard, hare's-ear mustard, tumbling mustard, ball mustard, Russian thistle, false flax, purple cockle, cow-cockle, ragweed, bird rape, blue burr, night-flowering catchfly, tansy mustard, wormseed mustard, and shepherd's purse. It requires the owner or occupant of land to use all reasonable means within his power to keep under control all noxious weeds, and if he makes default in so doing he is liable to a penalty not exeeeding $100 and costs. Provision is also made for the destruction of weeds in growing crops.

Game.—No. 40 amends the Game Act. It limits the killing of certain kinds of game, requires dealers to be licensed, and provides that the Act is to apply to all Indians in the Province.

Wolf Bounty.—No. 41 provides for the payment of a bounty to persons killing wolves.

Liquor Licences.—No. 45, which amends the Liquor Licence Act, empowers the Lieutenant-Governor in Council to make regulations in respect of licensed premises, and it imposes a limit on the number of licences that may hereafter be granted, the numbers varying with the population of the districts.

Statute Law.—No. 46 is an omnibus Act introducing amendments into a large number of statutes. *Inter alia* it requires notice to be given by employers of accidents to their employees.

11. NEWFOUNDLAND.

Acts passed—35.

The majority of the Acts are of a character which in the United Kingdom would class them among the "Local and Personal."

Liquor Licensing.—No. 1 authorises the Licensing Board when for any reason it refuses to grant a yearly licence to any person, to grant him a temporary licence for a period not exceeding one month for the purpose of enabling him to dispose of his goods. No charge is to be made for the licence.

Mortgages.—The Registrar is required by No. 17 to keep an index of the name and address of all persons who execute chattel mortgages, and the

index is to be open to examination at all times upon payment of a fee of 25 cents.

Elections.—The whole law in regard to the election of members of the House of Assembly is consolidated in No. 21.

Beavers.—The law for the preservation of beavers is extended until October 1, 1918, by No. 26, prohibiting completely the killing of them.

Marine Disasters.—No. 28 provides for the payment of a sum of $100 to the family or representatives of any fisherman or seaman domiciled in Newfoundland who shall lose his life by accident through drowning or otherwise on the high seas, or within the territorial waters of the Colony.

Docks.—No. 29 authorises the Minister of Finance and Customs to pay to any company registered for the purpose of constructing and operating a marine dock, for a term of fifteen years, any sum by which the net annual profits on the actual paid-up capital shall be less than 5 per cent., and permits the importation free of duty of the necessary plant.

Merchant Shipping.—No. 30 amends the law so as to enable His Majesty's Government to notify the adherence of Newfoundland to the International Convention of 1910.

12. BERMUDA.

[*Contributed by the* HON. REGINALD GRAY, K.C., *Attorney-General.*]

1912.

Acts passed—39.

Copyright.—Act No. 7 repeals two local Acts relating to copyright as from the coming into operation here of the Imperial Statute, the Copyright Act, 1911.

Fruit Protection.—By enactment No. 13 extensive powers are conferred on the Board of Agriculture with the object of eradicating, as far as practicable, insect pests which attack or injure fruit trees and fruit.

Coroners.—Act No. 14 improves the practice as to the summoning of jurors, reduces the number of the jury to eight, and enables a majority of not less than three-fourths to find a verdict after a deliberation of at least one hour. This is analogous to the practice in civil cases in the Supreme Court.

Agriculture.—The previous Acts relating to the development of the agricultural interests of the Colony are consolidated in No. 16. The administration of the Act is entrusted to a public Board of not fewer than ten or more than twelve members, of whom the Director of Agricuture is the official adviser, he having also the management of the Agricultural Station.

Dredging.—The recent rapid development of these islands as a resort for

Canadian and American visitors has necessitated the dredging and improvement of the channels of approach to the principal ports. One dredger built at the expense of the Colony in 1911 has since been employed chiefly in dredging a new channel into St. George's Harbour, and the present Act (No. 20) authorised the building of another dredger for the improvement of the channels leading to the Dockyard Port and into Hamilton Harbour. These two dredgers cost approximately £70,000, the whole of which was paid out of current revenue.

Hospital.—Act No. 21 provides for the erection of a General Hospital, to be called "The King Edward VII. Memorial Hospital" in memory of his late Majesty and in commemoration of his illustrious reign. The estimated cost of the building when completed will exceed £10,000.

Pest Destruction.—The General Board of Health is empowered to appoint inspectors and to make regulations for the destruction or effective screening of the haunts and breeding-places of house-flies, rats, mice, mosquitoes, and other destructive fauna. The main objects of the Act (No. 22) are the extermination, as far as practicable, of rats and mosquitoes.

Advertisements.—Act No. 24 relaxes to some extent the too stringent provisions of the principal Act, 1911, No. 14, which was passed with the object of preventing the exhibition of unsightly advertisements and the disfigurement of the local scenery by the erection of hoardings for advertising purposes. The Act has worked admirably, and the friction at first caused by some of its provisions has been entirely removed by the reasonable concessions made in the amending Act.

Fisheries.—By Act No. 27 extensive powers are conferred on the Fishery Board for the protection of the Island fisheries, which in recent years have become much depleted by the indiscriminate capture of fish regardless of size or season.

Board of Trade.—By Act No. 30 the appointments of a Board of Trade and an inspector are authorised, the latter also acting as Secretary to the Board, and the administration of various Acts previously administered by the Governor in Council and by other Boards is transferred to the new Board.

1913.

Acts passed—41.

Channels Protection.—Act No. 7 was passed for the protection of the ship channels of the Colony, which are now being improved at considerable expense. It restricts the navigation of such channels by disabled ships and empowers the constituted harbour authorities to effectively prevent the obstruction of the channels and the approaches thereto, and to remove obstructions at the expense of the owners.

Revenue.—Under Act No. 10 a general importer of such goods as are usually placed in a bonding warehouse on importation is permitted to give

a general bond to cover all such goods imported during the next twelve months, instead of giving a separate bond with respect to each importation.

Club.—Act No. 14 incorporates the Royal Bermuda Yacht Club, which was founded in 1846, and limits the future liability of each member for the debts or other legal obligations of the club to the amount owing by him for subscription or otherwise, except with respect to any debts or obligations for which he may have expressly agreed to become responsible.

Salaries.—The salaries of the Governor, the Chief Justice, the Colonial Secretary, the Attorney-General, and the Receiver-General are permanently fixed by Act No. 15 at the amounts specified. This was made a condition of the surrender to the Colony of certain funds derived from colonial sources which heretofore were controlled by the Crown and the Governor in Council, all previous efforts to have them placed under the control of the Legislature having proved abortive.

Contingent Fund.—Act No. 17 places permanently at the disposal of the Governor in Council £500 per annum to be applied in payment of certain specified public charges which were formerly paid out of a local fund administered by the Governor in Council, and for the payment of emergent and unforeseen charges for which no other legislative provision has been made.

Trade Development.—Act No. 29 is an important measure which authorises the appointment of a Trade Development Board, the general duties of which are to endeavour to promote in every practicable way the development of the trade of the Colony, and especially to provide proper facilities for the tourist trade, and for the shipment to convenient markets of our agricultural products. The Board is also entrusted with the administration of legislative grants made for the purpose of advertising the attractions and advantages of the Islands as a tourist and health resort, and also of grants made to secure efficient steamship service with other places.

Birds.—Act No. 41 prohibits the exportation of the skins or plumage of any bird included in the Wild Birds Protection Act, 1902, and adds to the list of protected birds the dusky sheer-water and the fly-catcher, the former of which is exceedingly rare, but is believed to breed here occasionally.

X. THE WEST INDIES.

1. THE BAHAMAS.

The legislation for 1913 was reviewed in the Journal, vol. xiv. p. 224.

2. BARBADOS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Act passed—51.

Mortgages of Chattel Buildings.—The Chattel Buildings Security Act (No. 1) excludes the application of the Bills of Sale Act, 1893, to mortgages of chattel buildings, and makes the rights and liabilities of all persons in relation thereto subject to the rules of common law and equity and the specific provisions of the Act with respect to the registration, priorities, discharge, and realisation of such securities and their exclusion as trustee investments.

Tariff.—The Customs Tariff (Amendment) Acts (Nos. 4 and 14) extend the exemptions from duty by the Acts of 1901 and 1912 to machinery and apparatus imported for the purpose of reaping or manufacturing sugar or rum, and for the control of such manufacture provided such machinery or apparatus be certified as not imported for sale but for use on a designated plantation, and to machinery and apparatus imported for manufacturing hard bread and crackers and for the construction and working of the Barbados Telephone Company; and the Tariff Amendment Act (No. 2) (No. 43) enables the Comptroller of Customs at any time before October 1 in the current year to determine whether imported goods are of British origin and entitled to preferential treatment, and any payments of duty already made in excess of the preferential rate of duty are to be refunded.

Education.—The Education (Amendment) Acts (Nos. 6 and 37) amend the principal Act of 1890. The Education Board established by Act, 1890, is made a body corporate in whom all lands of the Board's trustees are to vest. Compulsory powers for acquisition of school sites are given to the Board, and also powers of sale and disposition over lands not required for the purposes for which they had been acquired. The Barbados Scholarship is thrown open to the competition of Barbadian girls on the same terms and conditions to which Barbadian boys are subject.

Criminal Law.—The Habitual Criminals Detention (Amendment) Act (No. 8) amends a similar Act of 1911 [1] by providing that not less than seven days' notice to an offender shall be given of the intention to insert in an indictment a charge of being an habitual criminal and the grounds on which such charge is to be founded.

[1] See Journal, vol. xiii. p. 448.

Limited Partnerships.—The Limited Partnerships Act (No. 11) authorises the formation of limited partnerships subject to the provisions of the Act. A limited partnership for banking business is not to exceed ten persons, and for other businesses twenty persons, of whom some are to be general partners with full liability and others limited partners with liability to the amount of stated capital brought into the partnership on becoming partners, and without power to reduce this liability by withdrawal of capital. A body corporate may be a limited partner. These partnerships must be registered in manner provided by the Act and are subject to the modifications of the general law set out in the Act. Power is given to the Governor in Executive Committee to make rules in relation to matters incidental to the Act.

Emigration.—The Emigration Amendment Act (No. 12) amends the principal Act, 1904, by requiring all contracts of service to give liberty to the emigrant labourer to require at any time his employer to repatriate him, and extends the provisions of the principal Act to labourers other than natives of Barbados who are British subjects, but no such labourer is to be recruited for labour out of British territory without the permission of the Governor.

Wireless and Submarine Telegraphs.—The Wireless and Submarine Telegraph (Amendment) Act (No. 16) empowers the Governor in Executive Committee with the sanction of the legislative bodies to make rules regulating the use of wireless telegraphy on merchant ships, British or foreign, while in the territorial waters of the Colony, and in cases of urgency the Governor may issue special orders which are to come into immediate operation.

Pensions.—The Pension (Amendment) Act (No. 41) amends the principal Act, 1907, by saving to public officers of the Crown, dismissed after twenty years' service on grounds of general inefficiency, their right to a pension on proof of permanent incapacity for discharge of duties arising otherwise than by his own misconduct, and their right to receive either the surrender value or an assignment of the endowment life assurance policy effected pursuant to the principal Act.

Copyright.—The Trade (Amendment) Act (No. 47) amends the principal Act, 1910,[1] by including among the goods prohibited from importation into the island copies made out of the island of any work in which copyright subsists by virtue of the Imperial Copyright Act, 1911, and as to which the owner of the copyright had given to the Commissioners of Customs and Excise in England or to the Comptroller of Customs in Barbados written notice objecting to the importation into the island of such copies.

[1] No. 15 of 1910. See Journal, vol. xii. p. 496.

3. BRITISH HONDURAS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Ordinances passed—40.

Cremation.—The Cremation Ordinance (No. 3) enables the Governor in Council to permit the burning of human remains and make regulations under which cremation may take place.

Petroleum.—The Petroleum Ordinance (No. 8) prescribes the mode of testing petroleum so as to ascertain the temperature at which it will give off inflammable vapour.

Law Revision.—The Consolidated Laws (Revised Edition) Ordinance (No. 9) appoints Walter Sidney Shaw, Chief Justice of the Colony, a Commissioner for the purpose of consolidating and preparing a new and revised edition of the Laws of the Colony and empowers the Governor in the event of the inability of this Commissioner to discharge his commission, to appoint some other Commissioners.

In preparing the Revised Edition, the Commissioner is to have powers:

> to omit repealed or expired ordinances, repealing sections of ordinances, preambles and introductory words of enactment, dates of first operation of ordinances, and amending ordinances after the amendments therein have been embodied by the Commissioner in the ordinances to which they relate; to consolidate ordinances; to alter order and form of any sections, and renumber them, and to transfer enactments from one ordinance to another more appropriate; to divide ordinances into parts and divisions, omit their titles and renumber for the new edition, alter the numbers of the chapters of the ordinances in existing edition, shorten and simplify language of ordinances, and generally all other things of form and method necessary for perfecting the new edition.

These powers are not to authorise the Commissioner to make alterations in the matter or substance of an ordinance without drafting a Bill setting forth the same to be submitted to the Legislative Council.

Upon completion of the new edition, a copy attested by the Governor and Chief Justice is to be deposited in the office of the Registrar-General of the Colony, and is to be deemed the original of the new edition, which is to be known as "The Revised Edition of the Consolidated Laws of British Honduras," and be cited as "The Consolidated Laws (Revised Edition)."

Upon proclamation by the Governor of the deposit of the original edition and that copies are ready for issue, the new edition becomes the only Statute Book of the Colony up to the date of the latest ordinance contained therein, subject to a proviso saving from being affected by the new edition all past matters done, existing rights and liabilities, pending legal proceedings and

statutory by-laws then in force. References made in ordinances or documents to ordinances affected by the new edition are to extend to the corresponding enactment contained therein, and copies of such new edition purporting to be printed by the authority of the Government of British Honduras are constituted evidence in all courts and places.

Volunteer Force.—The Volunteer Lands Grants Ordinance (No. 14) enables the Governor in Council to make free grants of lands up to 20 acres to efficient members for ten years of the British Honduras Volunteer Force and to members of less service than ten years when incapacitated by services rendered, and to members aged forty years and upwards or retired on account of ill-health, having been efficient during preceding fifteen years for not less than ten years, whether consecutive or not.

Milk.—The Pure Milk Ordinance (No. 17) regulates the sale and imposes tests on the quality of milk.

Public Health.—The Mosquito Evidence Ordinance (No. 21) makes the existence of mosquito larvæ in any water receptacle legal proof that such receptacle had not been emptied or the water oiled within twenty-four hours previous to finding the larvæ; also that if a mosquito imago be hatched from a pupa or larva within two days after its removal from a collection of water, legal evidence is thereby created that such water had not been efficiently oiled within one week previous to the day on which such larva was taken.

The prevention of yellow fever and malaria being largely secured by the removal of mosquito gnats in the proximity of habitations, such necessary sanitary precaution is enforceable by law.

Pensions.—The Pensions Ordinance (No. 22) amends the principal Ordinance of 1900 by making liable to forfeiture the pensions of any officials accepting the directorship of any company operating in the Colony without first obtaining the written consent of the Governor.

Honduras Government Loans.—The General Loan and Inscribed Stock Amendment Ordinance (No. 23) amends the principal Ordinance, No. 4, 1909,[1] by enabling the Governor when securities exchanged for inscribed stock bear a rate of interest not less than the inscribed stock, to issue such an additional amount of inscribed stock as shall make up the difference in saleable value between such stock and the securities.

Labour.—The Labour Ordinance (No. 24) is consolidated with No. 71 Consolidated Laws, and makes it unlawful to introduce labour to be employed in the Colony from any place outside the British Possessions and without the permission in writing of the Governor.

Postal.—The Postal Insurance Ordinance (No. 27) enables the Colony to adopt the provisions of the Insurance Agreement of the Universal Postal Union, signed at Rome on May 26, 1906.

Judicature.—The Supreme Court (Summary Jurisdiction) Ordinance (No. 29) enables the Supreme Court of the Colony to exercise a summary

[1] See Journal, vol. xi. p. 470.

jurisdiction in civil actions in which the value of the matter in litigation does not exceed $250, and in actions of ejectment of lands under the annual value of $250. But the summary jurisdiction is not extended to actions in which the title to lands of the annual value of $250 or more is in dispute, or to actions of libel, slander, seduction, malicious prosecution, false imprisonment, criminal conversation, or breach of promise of marriage unless both parties, by memorandum filed with the Registrar, otherwise agree. Provisions as to sittings of the court, proceedings prior to hearing, the hearing and trial, costs, and amendment of proceedings are contained in the Ordinance, together with forms of claim, etc., in the schedule.

Wireless Telegraphy.—The Wireless Telegraphy Ordinance (No. 30) makes it illegal to establish or work any wireless telegraphy in the Colony or its territorial waters without the licence of the Governor and compliance with the provisions of the Ordinance.

Opium.—The Opium Ordinance (No. 34) gives effect to the measures decided upon in the International Opium Convention signed at the Hague on January 23, 1912, and regulates the import into and export from the Colony, and the storage and sale therein, of opium, morphine, cocaine, and similar drugs.

Firearms.—The Firearms Ordinances (Nos. 36 and 39) make it unlawful for any persons to possess or use firearms without a gun licence, or to deal in firearms without a gun-dealer's licence, such licences to be issued by the District Commissioners in accordance with the provisions of the Ordinance.

Aliens.—The Aliens Ordinance (No. 38) amends the principal Ordinance, 1910, by enabling the Governor to expel any alien if it appears to the Governor in Council expedient so to do for the welfare or public safety of the Colony. Aliens domiciled or for two years resident in the Colony are excepted. The Governor is also empowered, if he thinks fit, in any "expulsion order," to order the arrest and deportation of the alien.

Appeals are allowed to the Supreme Court on the grounds that the appellant is not an alien, or is domiciled in the Colony, or has resided there for two years.

The provisions of the Ordinance, and of the principal Ordinance, are subject to treaty or other obligations between His Majesty and foreign Powers.

War Material.—The War Material Ordinance (No. 40) enables the Governor in Council, by Proclamation, to prohibit the sale within and the importation into the Colony of any war material, and the Governor to order such proclaimed war material to be seized by the police.

4. JAMAICA.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Laws passed—17.

Public Holidays.—The laws of Jamaica with respect to public holidays are no longer to operate in the Cayman Islands (No. 7). Other provisions have been made.[1]

Pensions.—No person enjoying a pension may accept the directorship of any company operating in the island or its dependencies without obtaining the written consent of the Governor (No. 10).

Hurricane.—Power is given by No. 11 to make loans to private persons in the parish of Westmoreland for the rebuilding of dwelling-houses destroyed in the hurricanes of 1912.

Copyright.—The Copyright Act, 1911, having come into operation in the Colony, the local laws relating to copyright of 1858 and 1906 are repealed (No. 12). Criminal penalties for offences in relation to copyright are added.

Cinematograph.—No. 14 follows the numerous precedents described in the Review of the Legislation of 1912.

Opium.—The sale and importation of opium and its derivatives (also cocaine) are controlled by a law in model form, particulars of which are noted under Sierra Leone.[2]

5. TURK'S AND CAICOS ISLANDS.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Five Ordinances are passed for these islands, two of which deal with supply; another (No. 4) applies the Jamaica law above described, preventing pensioners from accepting directorship of companies; and another (No. 5) makes like provision as in Jamaica with respect to cinematographs.

6. CAYMAN ISLANDS.

Laws passed—8.

Diseases of Plants.—The object of No. 4 is to prevent the spread of a disease known as "bud-rot" amongst cocoanut palms.

Civil Service.—Law 5 provides for security being given by public officers in the Islands.

Auditors.—By Law 6 two auditors of public accounts are appointed, and two local auditors.

[1] See *infra*, p. 131. [2] See *supra*, p. 93.

Public Holidays.—New Year's Day, Good Friday, Easter Monday, May 24 (known as Victoria Day), August 1, Christmas Day and the day after, and the birthday of the reigning Sovereign are appointed as public holidays by Law 7.

7. TRINIDAD AND TOBAGO.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Ordinances passed—36.

Preferential Tariff.—The Canada and West Indies Reciprocity (Tariff) Ordinance (No. 1) ratifies and adopts on behalf of the Colony the agreement, dated April 9, 1912, between Canada and certain of the West Indian Colonies set out in the schedule to the Ordinance. The Ordinance provides that the preference granted by the agreement to Canadian goods is to be extended to similar goods of the United Kingdom and of Newfoundland. The Ordinance is to come into operation by proclamation of the Governor.

Immigration.—Two Ordinances (Nos. 2 and 4) amend and are consolidated with the principal Ordinance (No. 161 Laws of Trinidad and Tobago). They give power to the Governor to make regulations as to provision of latrines on plantations whereon immigrants are employed, and for the removal of the sick to public hospitals. Exemptions from conviction for absence from work are to be allowed in cases of physical unfitness and on other specified grounds. Magistrates are empowered to issue search warrants on sworn information of absence of indentured immigrant from his plantation for three days without leave. The Protector of Immigrants is authorised to give the consent required under the Marriage Ordinance (No. 59) in the case of parties to an intended marriage being under twenty-one years if there be no person entitled to give consent. Penalties are imposed for adultery with the wife of an immigrant. Commutation money payable on determination or transfer of labour indentures is made payable to the employer. The limit of age is increased from ten to thirteen, above which latter age no child is to be sent to Indian Training School. Immigrants who have been apprenticed by the Governor under the principal Ordinance are liable to detention in a reformatory for breach of the articles of apprenticeship, and to arrest without a warrant for absence without leave from service.

The Ordinance (No. 4) establishes the Planters' (Immigration) Fund to be credited with sums received for immigration fees, and on account of immigration tax, and to be debited with the annual cost of immigration under the Immigration Ordinances, other than salaries, etc., made payable by such Ordinances out of general revenue and such portion of cost of return passages as is not payable by the immigrants.

Deeds.—The Registration of Deeds (Amendment) Ordinance (No. 7) amends the principal Ordinance (No. 57) by providing that deeds wholly

executed out of the Colony and since May 1, 1905, registered under the principal Ordinance without the signature of some barrister or certificated conveyancer, are to be deemed to have been properly registered.

Copyright.—The Copyright Ordinance (No. 8) repeals the existing Ordinance (No. 75), the Copyright Ordinance of 1907, and the Foreign Reprints Ordinance (No. 180), and adopts the definitions given to terms in the Imperial Copyright Act, 1911, and provides for delivery to the Colonial Secretary of the Colony of three copies of every book for disposition by him as to one copy to the Secretary of State for the Colonies, as to another to the Governor's order, and as to the remaining copy to the Public Library. Penalties are imposed on conviction of fraudulent offences and infringement of copyright, and for dealing in or circulating infringing copies of any work.

Crown Suits.—The Crown Suits Ordinance (No. 9) provides that all claims by the Crown are to be commenced and enforced by action in the Supreme Court in the name of the Attorney-General in the same manner as in a suit between subject and subject.

Any claims against the Crown by a claimant may with the consent of the Governor be the subject of a suit in the Supreme Court instituted by the claimant as plaintiff against the Attorney-General as defendant. The claimant is not to issue a writ of summons, but commence the action by filing a statement of claim in the Supreme Court, and thereupon the fiat of the Governor having been endorsed, the claim shall be prosecuted. Upon judgment against the Crown no execution is to issue, but a sealed copy shall be sent by the Registrar to the Governor, who by warrant under his hand shall cause the judgment to be carried into effect. Appeals are to be allowed as in the case of private parties. The procedure of the Judicature Ordinance (No. 34) is extended to actions by or against the Government.

Trade Marks.—The Patents, Designs, and Trade Marks (Amendment) Ordinance (No. 15) extends to the Colony the principle of special trade marks contained in s. 62 of the Imperial Trade Marks Act, 1905, whereby an association or person undertaking the examination of goods and issuing certificates as to the result by a mark on such goods may register such mark as a trade mark.

Real Property.—The Real Property (Amendment) Ordinance (No. 19) amends the principal Ordinance No. 60 by requiring all instruments of transfer or mortgage or whereby any incumbrance is created or mortgage is transferred, discharged, or released, and all caveats presented for registration to the Registrar-General in accordance with the principal Ordinance, to bear the signature of a barrister or solicitor and conveyancer as having prepared such instrument, but instruments or caveats executed wholly out of the Colony are excepted from this requirement.

Auctioneers.—The Auctioneers Ordinance (No. 20) makes it compulsory on every person trading as an auctioneer to obtain from the Receiver-General a yearly licence in accordance with the provisions of the Ordinance.

Local Defence.—The Local Forces (Amendment) Ordinance (No. 23) amends the principal Ordinance (No. 131) by giving additional powers to commanding officers enabling them to impress, as the service may require, all vehicles in whatsoever manner propelled, and horses, mules, donkeys, or cattle.

Solicitors.—The Solicitors Ordinance (No. 27) amends the principal Ordinance, 1912,[1] by repealing the section enabling *bona fide* clerks to solicitors and conveyancers practising in the Colony to be admitted as solicitors, and in lieu thereof providing that all solicitors entitled to practise in the United Kingdom shall be admitted at discretion of the Court on the Solicitors' Roll and entitled to practise in all the Courts of the Colony. The terms of entry by the Registrar in the Articled Clerks' Book of applicants are varied in respect of the university and other examinations deemed by the principal Ordinance to be qualifying examinations for entry into articles of clerkship in the Colony.

Agricultural Advances.—The Farmers' Advances Ordinance (No. 28) regulates by means of the statutory advance notes prescribed therein advances on lien of growing crops about to be reaped. Such notes create a charge during their currency on all growing crops and buildings subject to rent due or accruing with priority according to dates of filing the notes, and are to remain a valid security for two years from date thereof unless previously paid off, and any balance due at end of two years may be sued for as a debt or may be secured by a fresh advance note operative over the same buildings as before and over the succeeding year's crops. The notes are transferable by endorsement and delivery by the holders, and the transferee upon notice of transfer to the borrower stands in the same position as the original lender. The borrowers, with the consent of holders of the advance notes, may, subject to such notes, transfer their interests in the lands affected by such notes. Borrowers are restricted from delivery of the crops when reaped otherwise than in accordance with the provisions of the Ordinance.

Trinidad Inscribed Stock.—The General Loan and Inscribed Stock Ordinance (No. 29) enables the Governor or the Crown Agents in his behalf to raise moneys authorised by any Ordinance either by debentures or by Trinidad and Tobago inscribed stock, or partly by debentures and partly by inscribed stock, in the manner prescribed and according to the provisions contained in the Ordinance, which is made applicable only to raising loans in England.

Partnership.—The Partnership Ordinance (No. 30) extends to the Colony with some necessary local modifications the Partnership Act, 1890, of the United Kingdom.

Companies.—The Companies Ordinance (No. 31) extends to the Colony with some necessary local modifications the Companies (Consolidation) Act, 1908, of the United Kingdom.

[1] No. 29 of 1912. See Journal, vol. xiv. p. 234.

Leprosy.—The Lepers Ordinance (No. 32) enables the Governor to establish leper asylums and appoint officers to control and manage the same in accordance with the provisions contained in the Ordinance.

Wills and Probate.—The Administration of Property Ordinance (No. 35) is consolidated with the Wills and Probate Ordinance (No. 99.) The Ordinance defines the "kin" to a deceased person intestate for the purpose of beneficial succession as the lawful issue of the deceased; or his father or mother, or grandfather or grandmother, or great-grandfather or great-grandmother, or the issue of any such person; and the "next of kin" as those nearest in degree of relationship among the "kin," reckoning each step to or from the common ancestor as a degree of kinship; the half-blood to come after the whole blood of the same degree. The Administrator-General, as to estates taken or claimed on behalf of the Crown and in respect of questions of parcels, title, next of kin, claims in opposition to the Crown, liens, and charges, is required by originating summons to obtain directions of a judge in chambers on all matters in question.

Real estate the property of a deceased person is on his death to vest in his personal representatives as if it were a chattel real. Probate and letters of administration are to vest in the executor or administrator all deceased's real and personal estate without devolution of estate by inheritance except as to beneficial interests, which are to be held by the personal representatives as trustees for persons beneficially entitled. Immediately on death all the estate, real and personal, of the deceased is to vest in the Administrator-General until it is devested by grant of probate or letters of administration to some other person. Provisions are contained as to the transfer to persons beneficially entitled, appropriations of estate in satisfaction of legacy, or share, partition, administration of intestates' estates generally, distribution of the undisposed balance of residuary estates, rights of husband and wife of an intestate person dying after commencement of the Ordinance, and waiver of right of the Crown over estates escheated in favour of persons establishing legal, equitable, or moral claim.

In cases of lunacy the Administrator-General may be constituted the committee of the estate and effects of the lunatic.

8. THE WINDWARD ISLANDS.

[*Contributed by* Sir Charles J. Tarring, *late Chief Justice of Grenada.*]

(i) GRENADA.

Ordinances passed—11.

Wireless Telegraphy (No. 5).—Licence must be obtained from the Governor for establishing stations or installing or working apparatus in any place or on board any ship registered in the Colony. Wireless

telegraphy on board any merchant ship, British or foreign, while in territorial waters of the Colony, must be worked in accordance with regulations under the Ordinance. Search warrants may be granted by magistrates to enter and inspect stations, places, or ships, and to seize apparatus, to enforce the provisions of the Ordinance.

The **District Boards (Exhibitioners) Ordinance** (No. 7) empowers District Boards to maintain exhibitioners, children of poor parents resident in the district, while attending secondary schools.

The **General Loan and Inscribed Stock Ordinance** (No. 11) provides for the raising of loans thereafter authorised by the Legislature by debentures or by inscribed stock issued under the Imperial Colonial Stock Act, 1877, and for their payment.

The **Import Duties (Preferential) Ordinance** (No. 10) provides for the adhesion of the Colony to the Canadian-West Indian Preferential Agreement signed at Ottawa, April 9, 1912, and amends the Import Duties Ordinance of 1912.

The **Police (Liability to Military Service) Ordinance** (No. 2) empowers the Governor, in case of actual or apprehended invasion, to order the police force, or any part thereof, to be employed for actual military service within the Colony. They are thereupon to be subject to the Imperial Army Acts and to the Articles of War.

Amendment Ordinances were passed to the following Ordinances: viz. Water Supply (1911), Revised Edition of the Laws (1911), Primary Education (1911), Pensions (1911). The last enables the Governor with the approval o the Secretary of State to terminate the pension of a pensioner becoming, without permission in writing of the Governor, director of a company doing business with the Colony, or an officer or servant within the Colony of such company. The Secretary of State may restore the pension, with retrospective effect, on cessation of such relations.

Two **Appropriation Ordinances** were passed.

(ii) ST. LUCIA.

Ordinances passed—27.

The **Revised Edition of the Laws Ordinance** (No. 20) empowers the Governor to appoint a Commissioner for the purpose, prescribes the Commissioner's powers, and provides the procedure for alteration of the substance of any Ordinance, and for bringing the new edition into force. Enactments of the Imperial Parliament, Orders-in-Council, Proclamations, Rules, Regulations, Bye-Laws, and other instruments having the force of law in the Colony may be contained in the new edition.

The **Interpretation Ordinance** (No. 24) assigns a meaning in Ordinances and official and legal documents, unless the contrary intention appears, to sixty-one expressions and three classes of expression, fixes the date of the

coming into force of Ordinances, supplies a method for the citation of Ordinances and Imperial Acts, lays down the construction of preambles and schedules or tables to Ordinances, of references to repealed or amended enactments, declares the effect of the repeal of repealing enactments and of substitutionary provisions, states the savings in cases of repeal, and provides for judicial notice of Orders-in-Council and other official documents, for the computation of time, measurement of distances, appropriation of penalties, imposition of fines as alternative to imprisonment, and the construction of Acts of Parliament extending to the Colony.

The **Lepers Ordinance** (No. 15) empowers a magistrate after inquiry to order the detention in a leper asylum of a leper likely to become a burden upon the person legally bound to maintain him, until discharged by order of the Governor. The said person is to pay monthly to the Government during the leper's detention such sum as the magistrate may order. On certificate by two medical practitioners that any person within his jurisdiction is a leper, and on further certificate by any medical practitioner, by the Chief of Police, or by a justice of the peace that he is a fit subject for gratuitous relief, a magistrate shall order his detention in a leper asylum free of charge till discharge by the Governor. A person reasonably suspected of being a leper may on sworn information be summoned by a magistrate, or brought before him under his warrant, and charged with being a leper and with begging or exposing his leprosy in any public place; and on satisfactory proof of the charge may be sent for detention in a leper asylum until discharged by the Governor. Notification to a magistrate, medical officer, or the Chief of Police of cases of leprosy is compulsory on all except ministers of religion, report to be immediately made to the Governor, who may order an inquiry and the detention of the leper in a leper asylum, provided two medical practitioners certify that such person is actually suffering from leprosy. But no such detention shall be ordered if the Governor is satisfied that the leper can, and will within a prescribed time according to the Governor's directions, provide for himself effective isolation and medical treatment, unless the leper is suffering from ulcers, in which case he shall be sent for detention to a leper asylum. Authority is given to medical officers between sunrise and sunset to search dwelling-houses, buildings, vessels, or places for lepers. A leper may apply in writing, attested by a medical officer or justice of the peace, for admission to a leper asylum on conditions prescribed by the Governor; and shall not be entitled to leave until the expiration of the term mentioned in his application on pain of being captured and brought back to the asylum. Persons convicted of offences shown to be lepers may be committed to a leper asylum to undergo imprisonment, and thereafter to be detained till discharged by the Governor.

A prisoner or a lunatic may, on the certificate of the medical officer of the prison or asylum that he is a leper, be removed to a leper asylum and detained there until discharged by the Governor. Lepers may be removed from one

asylum to another by order of the Governor. Any leper escaping from an asylum may be captured and conveyed back to the asylum; persons obstructing capture and aiding escape are liable on summary conviction to a fine not exceeding £10. The Governor may in his absolute discretion order the discharge of lepers detained under this Ordinance, and shall do so on the medical officer's certificate of cure or absence of ulcers. When it appears to the medical superintendent of an asylum that an inmate is fit for conditional discharge, he shall certify accordingly to the Governor, who may permit the inmate to leave the asylum for such period and under such conditions as he may prescribe, and may revoke such permission or alter such period or conditions. On failure to return as specified or to comply with the prescribed conditions, or on revocation of the conditions, the leper may be retaken. The police are to be informed by the medical superintendent of permissions of absence and are to keep such absentees under observation. Lepers are forbidden to carry on certain scheduled trades or callings and any additional ones notified in the *Gazette* by the Governor, on pain of committal to a leper asylum; and any person knowingly employing a leper in any such trade or calling is liable on summary conviction to a fine not exceeding £10.

Lepers may not enter public vehicles or lodge in any hotel, boarding-house, or lodging-house, nor sell any article of food or drink prepared or handled by him on pain of committal to a leper asylum; and any person knowingly selling such articles of food or drink shall be liable to fine as above, as also any one purchasing or receiving from an inmate of a leper asylum food, clothing, or other article without the permission in writing of the medical superintendent; or going within the limits of a leper asylum without similar permission. The landing of lepers not natives of the Colony is prohibited under penalty of a fine not exceeding £100 on the master or other person in charge of the vessel. The Harbour Master on reasonable suspicion of leprosy in any person on board a vessel arriving in the Colony may give notice verbally or in writing to the master or other person in charge, or by writing affixed to some conspicuous part of the vessel, that the person so suspected is to be detained on board for examination by the Health Officer; and the master or other person in charge shall prevent the suspected person from landing under a maximum penalty of £100. The Harbour Master shall forthwith inform the Health Officer, who shall within ten hours thereafter examine such person and certify his condition in writing to the Governor, and if certified to be leprous such person shall not land without the Governor's permission, to be granted if the person is a native of or domiciled in the Colony, or on his entering into an approved bond to His Majesty with two sureties (householders in the Colony) in £100 not to beg or expose himself in any public place or commit any breach of the provisions of or regulations under this Ordinance, or become chargeable to the Colony's funds. Every leper landing in breach of these provisions may be committed

by the Governor's warrant to a leper asylum; or after magisterial inquiry be removed to the place whence he came, the costs of such inquiry and removal being paid by the master or other person in charge of the vessel bringing the leper to the Colony.

The **Opium Ordinance** (No. 1) gives effect to the International Opium Convention signed at the Hague, January 23, 1912, forbids the cultivation of opium poppy, and regulates the importation, storage, and disposal of opium, morphine, cocaine, and similar drugs.

The **Customs Preferential Tariff Ordinance** (No. 2) gives effect to the Canadian-West Indian Tariff Agreement signed at Ottawa, April 9, 1912, and amends the Customs Tariff Ordinance, 1912.

The **Signatures to Petitions Ordinance** (No. 11) regulates the writing of petitions, letters, etc., in the names of persons other than the writers.

The **Police (Liability to Military Service) Ordinance** (No. 14) enables the Governor, in case of actual or apprehended invasion, to order the police force or part thereof to be employed for actual military service within the Colony, and they are then to be subject to the Imperial Army Acts and to the Articles of War.

The **Prison Officers' Pensions Ordinance** (No. 16) provides for pensioning prison officers.

The **General Loan and Inscribed Stock Ordinance** (No. 17) provides for the raising of loans thereafter authorised by the Legislature by debentures or by inscribed stock issued under the Imperial Colonial Stock Act, 1877, and for their payment.

The **Stamp Duty Ordinance** (No. 21) consolidates and amends the Law relating to Stamp Duties, and repeals the Stamp Ordinance, 1881 (No. 60), the Amendment Ordinances, 1890 (No. 10) and 1910 (No. 4), and Arts. 2,012*a* and 2,012*b* of the Civil Code enacted by s. 3 of the Civil Code Amendment Ordinance, 1907 (No. 2).

Two **Appropriation Ordinances** (Nos. 8 and 26) were passed; and the following **Amendment Ordinances**, viz. Surveyors and Boundaries Settlement (1911), Towns and Villages (No. 10 of 1911), Castries (No. 7 of 1911), Civil Code, Code of Civil Procedure, Code of Criminal Procedure, Baron Charitable Trust (1887), Civil Status (1879), Prisons (1908), Plants Protection (1909), Savings Bank (1903), Petroleum (1900), Crown Lands (1878), Pensions (1902), the last making the same provisions as the Grenada Ordinance (No. 12) of this year.

(iii) ST. VINCENT.

Ordinances passed—19.

The **Customs Preferential Duties Ordinance** (No. 2) gives effect to the Canadian-West Indian Preferential Tariff Agreement signed at Ottawa, April 9, 1912, and amends the Customs Duties Ordinance, 1895.

The **Customs Duties Ordinance** (No. 6) fixes a tariff on imports into the Colony, admits some duty free, and prohibits the importation of certain articles.

Ordinance (No. 7) alters the expression "Supervisor of Customs" to "Collector of Customs."

The **Agricultural Credit Societies Ordinance** (No. 9) is intended to encourage and assist such societies under the Raffeisen system. They are to be registered by the Registrar of the Supreme Court of Judicature on certain conditions, the minimum number of members being twelve. Every registered society is to be governed by the rules set out in Schedule I of the Ordinance, and may sue and be sued in the name of its trustees. The Governor in Council may make loans to registered societies on certain terms up to a maximum of £500 in all. The Registrar may refuse to register without giving reasons; but an appeal from such refusal may be made to the Governor in Council, whose decision is to be final. Registration may be cancelled by the Governor in Council.

The **Police (Liability to Military Service) Ordinance** (No. 10) is in the same terms as Ordinance No. 2 of Grenada.[1]

The **Telegraph Companies Ordinance** (No. 11) enables the Governor in emergency by warrant under his hand to take possession of the telegraph lines of any company in the Colony in the name and on behalf of His Majesty for not more than one week from the issue of the warrant, but warrants may be issued from week to week as long as the Governor in Council thinks that the emergency continues. Compensation is to be paid by the Colony, its amount being settled by agreement or by arbitration conducted as provided in the Ordinance.

Wireless Telegraphy (No. 15).—This Ordinance is in the same terms as No. 5 of Grenada.[2]

The **General Loan and Inscribed Stock Ordinance** (No. 20) is a similar enactment to No. 11 of Grenada. It repeals Part II of the Debenture Ordinance No. 20, 1888.

Amendment Ordinances were passed to the following Ordinances: viz. Customs Duties, 1895 (three); Summary Conviction, 1911; Anthrax, 1911; Capital Punishment, No. 289 of 1868; Kingstown Board, 1897; Pensions, 1902. The last discontinues pensions to any person becoming without the Governor's permission either director or officer or servant of any company the principal part of whose business is in any way directly concerned with the Colony.

Two **Appropriation Ordinances** (Nos. 8 and 17) were passed; and an Ordinance (No. 13) authorising a loan not exceeding £1,000 to be expended on certain specified Public Works.

[1] See *supra*, p. 135. [2] *Ibid.* p. 134.

9. THE LEEWARD ISLANDS.

[*Contributed by* Sir Charles J. Tarring, *late Chief Justice of Grenada.*]

THE FEDERAL COLONY.

Acts passed—8.

Besides two **Appropriation Acts** (Nos. 1 and 2), only the following **Amendment** Acts were passed, viz. Elementary Education (No. 3), Medical (No. 5), St. Christopher-Nevis Constitution (No. 6), Lepers (No. 7), Small Charges (No. 8), and Public Officers' Guarantee Fund (No.9).

(i) ANTIGUA.

Ordinances passed—16.

The **Wild Birds Protection Ordinance** (No. 3) absolutely protects the wild birds specified in Schedule A, and defines a close period, February 1 to July 15, for those specified in Schedule B. Ordinance No. 2 of 1912 is repealed.

The **Opium Ordinance** (No. 4), giving effect to the Hague International Opium Convention of January 23, 1912, prohibits the importation of prepared opium and the cultivation of the opium poppy, and ordains the deposit of imported opium in appointed stores, only to be withdrawn thence on the authority of the Chief Government or other authorised Medical Officer, and only to duly qualified medical practitioners, dentists, and licensed druggists. Persons found in possession of opium otherwhere than in a store, and their accomplices, shall, unless they can prove ignorance of its presence, be liable on summary conviction to a maximum fine of £100 or to imprisonment for not more than twelve months with or without hard labour, and any prepared opium or opium unlawfully imported or withdrawn from store may be forfeited to His Majesty. Search warrants may be granted on sworn information, for Sundays as other days, to enter any named place, ship, or vehicle, to enforce the provisions of the Ordinance.

Cinematographs.—Ordinance No. 5 forbids, on pain of a maximum fine of £20, these and similar exhibitions except by permission of the Governor or Colonial Secretary subject to Regulations under the Ordinance and on terms specified in the permission. Powers of entry on all premises are given to the police or duly appointed officers to enforce the provisions of the Ordinance.

Ordinance No. 6 imposes the duty of carrying **Lights on Vehicles** in any public street, highway, or road between one hour after sunset and one hour before sunrise on pain of a maximum fine of 40*s.*, or on a second or subsequent conviction of £5. Bicycles, tricycles, or velocipedes within Ordinance No. 3

of 1899 are exempt, as well as vehicles moved by hand. Exemptions during crop or harvest time may be granted by the Governor in Council. The Ordinance does not apply to the Island of Barbuda.

Villages Improvement.—Ordinance No. 11 empowers the Governor in Council to set apart portions of Crown or Government lands to establish villages, the administration of which is vested in the Governor in Council. Salaried wardens may be appointed, and regulations made for the purchase or rental of cottages and lots of land, the wardens' duties, the erection of and additions or alterations to cottages or buildings, and generally the good government of the villages.

Wireless Telegraphy.—By consolidating Ordinance No. 10 licence must be obtained from the Governor for establishing stations or installing or working apparatus in any place or on board any ship registered in the Colony. Wireless telegraphy on board any merchant ship, British or foreign, while in the territorial waters of the Colony must be worked in accordance with regulations under the Ordinance. Search warrants may be granted by magistrates to enter and inspect stations, places, or ships, and to seize apparatus, to enforce the provisions of the Ordinance. Ordinances No. 12 of 1903 and No. 7 of 1913 are repealed.

Wheel Tax.—Ordinance No. 13 imposes taxes of varying amounts on vehicles of varying kinds, providing for gratis issue of new licences when a licensed vehicle becomes unfit. Vehicles drawn by animals belonging to and kept on and used exclusively for any plantation or in the conveyance of its produce or stores are exempted. The Acts Nos. 1 of 1870, 7 of 1887, 16 of 1892 are repealed.

By the **Agricultural Produce Protection Ordinance** (No. 14) purchasers of cacao, limes, and coconuts as defined must be licensed or buy from a licensed dealer, and receivers of such produce not so purchased may be fined for a first offence not more than £5, and for a second or subsequent conviction up to £20. Purchases for domestic use, by the owner of a plantation for planting or sowing, by the Agricultural Department, or under sale by legal process or at public auction are excepted. A dealer must be licensed by the magistrate of his district, and his name published at the nearest police-station. Sales and purchases must be made between 6 a.m. and 6 p.m., but exportation is not to be interfered with, or the sale or delivery for domestic use. Licensed dealers are to keep books in the scheduled form, which are to be open for inspection to the police or other person authorised by a magistrate. Every grower of produce for sale must have a police permit in the required form, to be inspected and endorsed by purchasers, except in the cases above mentioned where licences are not necessary. The police are authorised to enter the business premises of licensed dealers and inspect their books at any time between 8 a.m. and 5 p.m., or whenever purchases or sales are taking place, and to take copies of entries. Persons found upon or coming from plantations with produce in their possession may have it taken away by any

person entitled to the produce of the plantation or its occupier or their servant or agent; and they may be ordered off the land and called upon to give their names and addresses under similar penalties as above. Prosecutions must be commenced within three months after the commission of the offences alleged.

The **General Loan and Inscribed Stock Ordinance** (No. 15) provides for the raising of loans authorised by the Legislature by debentures or by inscribed stock issued under the Imperial Colonial Stock Act, 1877, and for their payment. Act No. 12 of 1892 is repealed.

The **Diseases of Animals Ordinance** (No. 16) consolidates and amends the law relating to contagious diseases amongst animals, and repeals Ordinances No. 11 of 1900 and No. 3 of 1908.

Three **Appropriation Ordinances** were passed (Nos. 1, 2, and 12); and **Amendment Ordinances** to the Liquor Licences and the Savings Bank Ordinances (both of 1913).

(ii) DOMINICA.

Ordinances passed—8.

Ordinance No. 2 consolidated and amended the law relating to the **Defence Force**, and repealed No. 10 of 1904; and Ordinance No. 3 did the same for the **Defence Reserve**, repealing Nos. 11 of 1904 and 5 of 1905.

Cinematographs (No. 5).—This Ordinance is in the same terms as No. 5 of Antigua.[1]

Opium (No. 6).—This Ordinance gives effect to the Hague International Opium Convention of January 23, 1912, in the same terms as No. 4 of Antigua.[2]

Wireless Telegraphy (No. 8).—This Ordinance is in the same terms as No. 10 of Antigua.[3] It repeals No. 9 of 1903.

Ordinances Nos. 1 and 7 are **Appropriation Ordinances.**

(iii) MONTSERRAT.

Ordinances passed—6.

Ordinances Nos. 1, 2, and 3 are **Appropriation Ordinances.**

Opium (No. 4).—This Ordinance gives effect to the Hague International Opium Convention of January 23, 1912, in the same terms as No. 4 of Antigua.[4]

Wireless Telegraphy (No. 5).—This Ordinance is in the same terms as No. 10 of Antigua.[5] It repeals No. 8 of 1903.

Cinematographs (No. 6).—This Ordinance is in the same terms as No. 5 of Antigua.[6]

[1] See *supra*, p. 140.
[2] *Ibid.* p. 140.
[3] *Ibid.* p. 141.
[4] *Ibid.* p. 140.
[5] *Ibid.* p. 141.
[6] *Ibid.* p. 140.

(iv) ST. CHRISTOPHER AND NEVIS.

Ordinances passed—12.

Ordinances 1 and 12 are **Appropriation Ordinances.**

Cinematographs (No. 3).—This Ordinance is in similar terms to No. 5 of Antigua.[1]

Ordinance No. 4 consolidates and amends the law relating to the **Defence Force,** and Ordinance No. 5 does the same for the **Defence Reserve.**

Wild Birds Protection.—Ordinance No. 6 absolutely protects birds specified in Schedule A, and sets up a close period, February 1 to July 15, for birds specified in Schedule B. Ordinance No. 9 of 1902 is repealed.

The **General Loan and Inscribed Stock Ordinance** (No. 7) provides for the raising of loans authorised by the Legislature and for the issue of inscribed stock under the Imperial Colonial Stock Act, 1877, and for the payment thereof. Ordinance No. 4 of 1893 is repealed.

Ordinance No. 8 gives effect to the **Hague International Opium Convention** of January 23, 1912, by provisions similar to those in Ordinance No. 4 of Antigua.[2]

Land and House Tax.—Ordinance No. 9 provides for the assessment and collection of this tax. Ordinances No. 9 of 1901 and No. 5 of 1907 are repealed.

Ordinance No. 10 regulates the local traffic in cotton and other products.

Vaccination.—Ordinance No. 11 enforces the practice of, and provides for the payment of fees for, vaccination.

(v) THE VIRGIN ISLANDS.

Ordinances passed—6.

Ordinance No. 3 gives effect to the Hague International Opium Convention, January 23, 1912, in terms similar to those in Ordinance 4 of Antigua.[3]

The **Liquor Licence** Ordinance (No. 4) consolidates and amends the law relating to the sale of intoxicating liquors. Ordinances Nos. 6 of 1900 and 2 of 1908 are repealed.

Wireless Telegraphy.—Ordinance No. 6 makes provisions on this subject similar to those in Ordinance No. 10 of Antigua.[4]

Ordinances Nos. 1 and 5 are **Appropriation Ordinances.**

[1] See *supra*, p. 140. [2] *Ibid.* p. 140. [3] *Ibid.* p. 140. [4] *Ibid.* p. 141.

XI. MEDITERRANEAN COLONIES.

1. GIBRALTAR.

Ordinances passed—12.

Opium.—Effect is given to the measures decided upon in the Hague International Convention by Ordinance No. 1.

Patents.—By No. 2 provision is made for the Governor to grant patents to any patentee of the United Kingdom in accordance with a procedure by petition and registration in the Supreme Court.

Post Office.—Four enactments relating to the Post Office and various provisions applying to the city are incorporated in No. 4, containing the whole law on the subject.

Pensions.—An alteration in the law is made by No. 8, similar to the provision elsewhere as to directorships being held by retired civil servants.

Dogs.—The importation of dogs is prohibited by No. 9.

Motors.—Motor traffic appears to be controlled for the first time by No. 10.

Aircraft.—Navigation of aircraft over any portion of Gibraltar is prohibited by No. 11.

2. MALTA.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Ordinances passed—16.

Receiver-General.—The office of Receiver-General is abolished by No. 6, the office of Treasurer being re-established.

District Courts.—The division of the island into districts originally established in 1839, and the country district courts, are abolished. The registries and all business in connection therewith are removed to Valetta (No. 7).

Opium.—Ordinance No. 16 follows the model form noted under Sierra Leone.[1]

The other Ordinances deal with supply, private affairs, or amend existing legislation in small particulars.

3. CYPRUS.

[*Contributed by* ALBERT GRAY, ESQ., K.C.]

Laws passed—14.

Interpretation.—Law No. 4 provides that every Law shall be published in the *Cyprus Gazette* as soon as possible after it is assented to, and unless some other time is specified, shall come into operation on such publication.

[1] See *supra*, p. 93.

Theatres.—Theatres, defined as any buildings in which stage plays are performed or cinematographs are exhibited, must be licensed by the municipality (No. 8).

Wireless Telegraphy.—This Law (No. 9) follows existing precedents.

Goats.—A campaign is started against goats by No. 12. If ten property owners in a village petition the High Commissioner recommending that goats should be excluded from the village, a ballot of the property owners and goat owners is to be taken. If the majority are against goats, the village is proclaimed as a "prescribed village," and after the lapse of twelve months goats must be banished which are in excess of one goat for 10 donums of land.

FOREIGN.

1. EGYPT.

[*Contributed by* NORMAN BENTWICH, ESQ., *Lecturer at the Khedivial School of Law.*]

Number of laws—33.

The most remarkable piece of legislation in Egypt during the year 1913 was the grant by the Khedive of a new Organic Law which established a new Legislative Assembly to take the place of the old Legislative Council and General Assembly, and at the same time introduced a larger electoral system and a fuller representation of the people. Besides this large measure there was a considerable amount of legislation concerned with judicial reforms, and the amendment of the Mixed Codes, consequent upon the increased legislative functions which have been accorded to the assembly of the judges of the Mixed Courts.

Fiscal Laws.—Nos. 1, 7, 8, 31.

Constitution.—Laws No. 29 and 30 replace the Organic Law of May 1, 1883, due to the recommendation of Lord Dufferin, and the Electoral Law of the same date, which had been modified by a decree of 1902. The new Organic Law sets up a single Legislative Assembly, and a Provincial Council in each Mendirieh (province) of Egypt.

The Legislative Assembly is composed of official, elected, and nominated members. The Ministers are members as of right, there are sixty-six elected members and seventeen nominated members, including the president and vice-president, with fifteen other persons designed to assure a representation of universities and interests not represented by the elective portion of the Assembly: such as the Copts, the Bedouins, merchants, doctors, etc. (Arts. 2 and 3). The members are elected for a period of six years, and one-third of both elected and nominated members are renewed every ten years (Art. 4). The Assembly may be dissolved at any time by decree of the Khedive issued at the instance of the Council of Ministers; and fresh elections must be held within three months (Art. 8).

Every law must be submitted for the opinion of the Legislative Assembly. By a *law* is understood any disposition relative to the inland affairs of Egypt, and affecting the organisation of the powers in the State, and pronouncing in

a general way on the civil or political rights of the inhabitants, as well as any decree introducing some regulative or forcible administration. Many other measures may be taken by Khedivial decree; but neither law nor decree may be promulgated without the signature of the President of the Council of Ministers and the Ministers concerned (Arts. 9 and 10).

The Assembly has a right of legislative initiative, save with constitutional laws. When a Bill is laid before it by the Government it may either accept it simply, or amend it, or reject it. If the Government does not share the opinion of the Assembly it may return a Bill with a statement of its point of view; and if the Assembly still disagrees a conference must be held between the Council of Ministers and the Assembly in committee. Failing agreement the consideration of the Bill is adjourned for fifteen days, when the Bill is submitted afresh to the Assembly, either in its original form or with the amendments of detail which the Government thinks expedient. The Government in case of final disagreement may either issue the law in the form proposed by it or dissolve the Assembly; in the latter case the Bill will be presented in priority over all other measures to the new Assembly (Arts. 11–16).

No fresh tax may be established without being discussed and voted by the Assembly. The Assembly must be consulted in the case of any public loan, or any project for the construction of canals, drains, and railways affecting several provinces. But while it has a general power of expressing opinions or recommendations either spontaneously or on the demand of the Government, it may not consider or discuss the service of the Civil List, the Public Debt, the charges depending on the Liquidation Laws, or international agreements or the foreign relation of Egypt, or any measure concerned with a particular official of the State or agent invested with a public office.

The Budget must be communicated to the Assembly (Arts. 18–20) forty days at least before the close of the financial year, and the Assembly can make any proposals and recommendations on the measure, which the Minister of Finance must consider. He may likewise, on giving reasons, reject the proposals (Art. 22).

Every Egyptian may address a petition to the Khedive, but a petition dealing with personal rights will be rejected if it falls within the competence of the Court, or if it has not been first addressed to the proper administrative authority. The members of the Assembly can question the Ministers on administrative matters of general interest, on condition of giving five days' written notice of their question. The Ministers may refuse to answer if they judge it in the public interests; and their answers cannot lead to any discussion (Arts. 25–29).

The Assembly meets on November 1, but is in session till the end of May. Before the sittings are closed it must have given its opinion on all the questions submitted to it. Its sittings are public, and two-thirds at least of its members must be present.

Chaps. 5 and 6 of the law deal with the Provincial Councils, which exercise local government, and are composed of the representatives of each Markay (town) of the province, elected by the electors-delegate of the villages. They are considered as juristic persons, and the Moudir (provincial Governor) who is the President of the Council represents it for the exercise of its powers.

Chap. 7 provides that any question of the interpretation of the Organic Law will be absolutely determined by a commission composed of the Ministers, of the members of the Assembly nominated by it, and of the president, vice-president, and senior judges of the native Court of Appeal.

The Electoral Law provides that all Egyptians of twenty years and upwards and not under any incapacity are electors (Art. 1). The elector must exercise his right in person and in the electoral college of his domicile; he may only exercise it once in the same election. Convicts, persons dismissed from the public service, advocates struck off the roll, bankrupts and interdicted persons are under an incapacity (Arts. 2–5).

In each section of a city, or in each town or village, every group of fifty electors elects an elector-delegate, who holds his function for six years. The qualifications for the delegate's post are to be inscribed on the electors' list and he must be thirty years of age. The electors delegate of each constituency elect a member of the Legislative Assembly, who must (1) be thirty-five years of age, (2) know how to read and write, (3) have paid for two years £50 a year of land tax or £20 of building property tax in some part of the country (subject to a reduction of three-fifths of the amount in favour of those who have a secondary school diploma), (4) be inscribed for three years on the electoral list of the province in which he is elected. Public office cannot be held with membership of the Assembly, and is deemed to be resigned by election. Lists of eligible persons are prepared each year. The electors delegates have eight days' notice of an election, and must consult with their electors as to the candidate for whom to vote. The election is conducted by a commission of five members, three elected persons. A judge is member of a District and a delegate of the Ministry of the Interior. The voting is by secret ballot.

The members of the Assembly are elected by an absolute majority of votes; on failure to obtain this a second ballot will be held between the candidates who have obtained the greatest number, and on this occasion the election will be determined by a relative majority.

Chap. III. deals with elections to the Provincial Councils, and Chap. IV. with the nullity of elections.

Budget.—Law No. 21 alters the financial year, which has hitherto run from January to December, by providing that it shall commence on April 1 and end on March 31, thereby bringing it into accord with the English fiscal year.

Bedouins.—The administrative organisation of the Bedouin tribes is modified by No. 13.

Wakfs.—Another constitutional change is made by law No. 32, which

changes the composition of the Higher Council of Wakfs (Charitable Endowments) to a decree which transforms the administration of Wakfs into a separate Ministry, which has a separate Budget that is submitted to the Legislative Assembly.

Agriculture.—A new Ministry of Agriculture was established by a decree in place of the administration of agriculture set up in 1910. Law No. 6 introduces fresh measures against cotton worm, and law No. 16 restricts the carriage of unginned cotton. Law No. 5 prohibits the importation of a number of plants and insects which might cause dangerous diseases to the native plants. Parcels of fruit and plants coming from abroad must be packed in such a way as to render examination easy, or they may be opened at the risk of the consignee.

Courts.—The organisation of the Cantonal (local) Courts which were instituted in 1912 was developed by several supplementary laws. No. 17 contains a code of procedure for the Courts. The parties may appear in person or by relations and friends, but not by advocates. No. 18 enacts a table of charges; No. 19 empowers the summary (paid) judge to preside over any Cantonal Courts in his jurisdiction, and No. 20 regulates the control of unsealed documents submitted to the Court for verification.

A new tribunal of first instance is established at Mansura by law 24.

Court Procedure.—No. 33 introduces several important amendments of the Mixed Code of procedure with a view to expediting affairs. It is provided that all expenses caused by obstruction will be charged upon the party responsible, though he is successful in the cause. The Court is bound to fix a term for the completion of any preparatory procedure.

The procedure before the Mehkemehs (Mahommedan religious Courts) is amended by law No. 31.

Homesteads.—Law No. 31 of 1912, which had introduced into the Mixed Codes provisions making properties less than 5 feddans unseizable in execution was modified by law No. 9, which removes the protection if at the moment when the debt was incurred the debtor possessed more than 5 feddans or were not a cultivator. The debtor cannot renounce his privilege, but he must set it up within thirty days of the notice from the creditors.

The homestead law with these modifications was applied to the native Code and the native Courts by No. 4.

Prisons.—The prison regulations are modified by law No. 26.

Public Health.—The powers of the Sanitary authorities in regard to measures against the plague and cholera are increased by laws 10 and 11, which apply to foreign as well as to native subjects.

Pensions.—Nos. 14 and 15 deal with civil pensions, and No. 28 with military pensions. 5 per cent. is deducted from the pay of all officers for the pension fund.

Fisheries.—A fresh regulation of the fishing and navigation on the lakes, the territorial waters and the Suez Canal is instituted by law No. 27.

Education.—Nos. 2 and 3 contain the constitution of elementary training colleges for women teachers and of the school of domestic economy. In both cases the instruction is to be given in Arabic.

2. FRANCE.

[*Contributed by* M. C. SANSAS, *Docteur en Droit.*][1]

The executive power of M. Fallières, President of the Republic, being on the point of expiring, the Senate and the Chamber of Deputies on January 17, 1913, met together in Congress, and by 483 out of 848 votes elected M. Raymond Poincaré in his stead.

Among the laws passed in the course of the year 1913, the following only need be noticed here :

Law of March 10, 1913.—Arts. 148, 158, 159, and 160 of the Civil Code are thereby modified. Provision is made for the authentification of the dissent of the ascendants in the case of a marriage of a descendant, who is a minor. In the case of illegitimate children who have been legally acknowledged the consent of the parent who exercises paternal power is sufficient; in the case of minors without ascendants, consent to the marriage is to be given by the family council (*conseil de famille*) or by the Court; in the case of the disappearance of the ascendants, it is sufficient if the minor takes an oath to the effect that the place of the decease or of the last domicile of his ascendant is unknown to him.

Law of May 28, 1913.—A privilege in favour of the victim of an accident is created over the policy of insurance under which the person who causes the accident is indemnified from the consequences of his negligence.

Law of June 17, 1913.—The law prohibits any industrial or commercial concern from employing any woman within four weeks from her confinement, and a daily allowance is made to women deprived of their means during the periods of rest preceding and immediately following their confinement.

Law of July 3, 1913.—The law regulates the organisation of companies or undertakings of every kind, French or foreign, which under any name whatsoever aim at uniting and capitalising collectively the savings of their members without undertaking definite obligations towards them.

Law of July 14, 1913.—Assistance to numerous families is made compulsory upon the departments (*départements*) with the participation of the *communes* and the State. Every Frenchman who has dependent upon him more than three children, legitimate or acknowledged (*reconnus*), and whose means are insufficient, receives an annual payment for every child after the third less than thirteen years old. If the father has disappeared, the mother receives help for every child after the first less than thirteen years old. The

[1] Translated by M. F. P. Herchenroder, Esq.

rate of payment is fixed for each *commune* by the municipal council: it must not be less than 60 francs per annum per child, nor exceed 90 francs.

Law of July 29, 1913.—Provision is made for insuring the secrecy and freedom of voting and the genuineness of elections.

Law of July 31, 1913.—The law provides in what manner the creditors of the vendor of the goodwill of a business can pursue their claims.

Law of August 7, 1913.—This legislative measure was made unavoidable in France owing to the vote of the German Reichstag raising the peace footing of the German Army to 863,000 men. The military burdens imposed by the law of March 21, 1907, are thereby increased. Every Frenchman of the age of twenty years, who has been recognised as fit for military service, is enrolled in the Regular Army for three years; he becomes a member of the Reserve of the Regular Army for eleven years. For seven years he becomes a member of the Territorial Forces and for another seven years of the Reserve of the Territorial Forces. Should circumstances render it necessary, the Minister of War and the Minister for Naval Affairs are authorised to retain temporarily under military law those men who have terminated their third year of service.

Law of August 8, 1913.—The law provides the form in which enlistment in the Navy is to take place, favours re-enlistment for a long period of time, and makes part of the Land Forces members of the Naval Reserve in excess of those needed.

Law of August 8, 1913.—Proprietors of hotels (*hôtels à voyageurs*) are enabled to borrow upon movables (*mobilier commercial*), materials or implements, while at the same time retaining possession of them in the hotel premises. The articles mortgaged remain the security of the lender and his representatives. This mode of creating security is effected by entry upon a register with counterfoil kept by the registrars of the Commercial Courts. The page torn from the register is known as "*warrant-hotelier*" and constitutes the title of the creditor.

Law of November 22, 1913.—The law modifies the law of July 24, 1867, and subject to certain conditions authorises general meetings of limited companies to alter all the articles of association except as to the nationality of the company and any increase in the liabilities of the shareholders. It is applicable to companies already formed under the law of 1867.

Law of December 30, 1913.—The law of June 9, 1853, concerning pensions is modified so far as concerns the manner of payment, the maximum of the pension, and the mode of calculating the amount to various classes of naval officers.

Law of December 31, 1913.—The law relates to work in mines, fixes the extent of the application of the eight hours' day as well as the hours of descent into and ascent from the mines, and makes certain exceptions to the rule of eight hours' work a day in case of *vis major*.

3. ITALY.

[*Contributed by* COUNT TENDERINI.]

Protection of Animals.—The law of June 12, 1913, amends Art. 491 Penal Code so that any cruelty against animals is prohibited, and especially the employment of those through age, wounds, or illness no longer able to work. It forbids their abandonment, sports involving their torture, and cruelty in transporting them. The law authorises the constitution of societies to enforce the law by means of agents with the powers of police and the right to conduct prosecutions. Experiments on living animals may be performed only by persons provided with a special licence granted by the Minister for Internal Affairs.

Old Age Pensions.—The Government is authorised to make arrangements for the insurance of foreign subjects of those countries where reciprocal arrangements are in force for the treatment of Italian workmen.

Child Labour.—The law prescribes that the working hours for boys compelled to go to school must not exceed the number of ten. The standard is raised of the qualification corresponding to what is known in England as the school leaving certificate.

Shipping Subsidies.—Arrangements are made under Government auspices for a line of steamships from Venice to Calcutta with a State contribution of lit. 900,000, including the Suez Canal dues—amounting to about lit. 500,000 every year. The service is to be monthly, and run by ships of not less than 4,000 tons. The service between Genoa and Central America, which will be rendered more important by the opening of the Panama Canal, will have a State contribution of lit. 450,000 for five years. The conditions are similar to those of the Indian service, but the boats to be somewhat faster. A fortnightly service between Naples and London is to receive a yearly contribution of lit. 500,000 for ten years.

Liquor Licensing.—The sale of alcoholic liquor containing over 21 per cent. of alcohol is forbidden. The sale of liquor in barracks, asylums, or any other public institutions or to children under sixteen is forbidden. No portion of the payment of wages may be made in the form of liquor. The manufacture, importation, or sale of absinthe is prohibited. No licence for the sale of liquor can be granted in an area where the shops already number more than one to 500 inhabitants. Institutions are to be established for habitual inebriates. Any one convicted twice for drunkenness loses for five years the right to vote in parliamentary or municipal elections, and are not to be enrolled as jurymen.

Cinematographs.—A tax of lit. 0·10 is imposed on each metre of film and the cinematographs placed under Government supervision.

Collisions at Sea.—The Brussels Convention of 1910 is adopted into the law of the country.

4. NORWAY.

[*Contributed by* E. Corneliussen, Esq.]

Among the laws passed in 1913, the following appear to be those of most general interest.

Constitution.—By a Resolution of *June* 11 the hundred and twelfth paragraph of the Norwegian Constitution or Fundamental Law (Grundlov), which is of May 17, 1814, was given an additional clause, stating that the Crown has no right of sanctioning or refusing to sanction alterations of the Constitution. By this Resolution a moot point of long standing has been removed. Disputes had formerly repeatedly arisen as to whether the King, in the case of alterations of the Constitution, had an absolute veto, a suspensive veto, or no veto at all. This question was, however, now of minor practical importance, as it is difficult to imagine that a right of refusing sanction would be made use of, even if such existed.

By the Resolution of *June* 11 of the Constitution, paragraph 50 of the said Fundamental Law has been so altered that women have been granted parliamentary franchise on the same footing as men, that is to say, there is universal suffrage. Hitherto in the case of unmarried women a certain small income had been stipulated as the qualification, and that they had paid taxes thereon for the foregoing year. In the case of married women, the qualification was, that the husband had been assessed and had paid taxes for the previous year.

Another Resolution revising the Constitution renders Councillors of State while in office eligible for election to the Storthing. Motions having in view the introduction of this reform have previously always been rejected. Hitherto the law has been that any one who at the time when the elections take place, which is every three years, is a member of the Government, is not eligible for election to the Storthing, and consequently that if, during the period of three years, he should retire from office, he will practically be cut off from political life until that period has expired. The inconvenience of this has been particularly felt in Norway, owing to the Constitution not providing for any dissolution of the Storthing and further that when the elections take place, a supernumerary or substitute is elected simultaneously with each member to fill any vacancy arising by death or valid inability to attend, and in such case the substitute can be summoned in his stead; so there is very rarely any question of a by-election which might afford a retired Councillor of State an opportunity of being elected to the Storthing and thus re-entering the sphere of politics.

The alteration of the Constitution has the effect of increasing the possibility of, though not making it necessary for, a Councillor of State to be also a member of the Storthing. Now a Councillor of State when in office may be

elected a member of the Storthing, but is only entitled to be present and take part in the debate without being able to vote. His substitute attends in his stead so long as he is a Councillor of State. But the fact that he had also been elected a member of the Storthing, either before he became a Councillor of State, or now (since the alteration of the Constitution) while Councillor of State, admits him, if he relinquishes his appointment, at once to his seat in the House of Representatives.

Waters.—The law of February 20, amending the law respecting the regulation for industrial purposes of the flow of water in water systems of August 4, 1911,[1] limits the number of cases in which the regulating of water systems can be undertaken without obtaining the sanction of the Crown ("concession"). By the law of 1911 it was unnecessary to obtain a "concession" when the regulation was on one's own property, or when all the landowners were agreed, and when further regulating works would not injure public interests and would not cause the damming up or the lowering of lakes that were not entirely subject to private rights. This law of 1913 enacts that, even in such cases, "concession" is necessary, providing the regulating causes an increase of the water-power of at least 2,000 natural horse power for any single fall or for any series of falls that can be utilised together within the water-system.

Land Concessions.—The law of July 25 as to the acquisitions of peat bogs or other marsh lands enacts that a "concession" is necessary for any persons other than the State, Norwegian communes and Norwegian subjects to acquire the right of ownership or of usufruct in respect of peat bogs or other marsh lands, which alone or together with what other marsh land the person acquiring the same already owns or makes use of within the same hundred, amount to more than 25 hektares.

This law is, in the same way as the above-mentioned laws on the regulation of water-systems, a link in the chain of efforts that have characterised the legislation of recent years, and which are directed towards the preservation of the natural resources of the country for its own citizens and to prevent the monopoly of such by speculators and foreigners.

[1] The history of this legislation was described in an article in the Norwegian Supplement of *The Times* (May 18, 1914) by Dr. Thv. Aarum, Permanent Secretary of the Department for Social Questions, Trade and Industry. See also Journal, vol. xi. p. 331.

5. RUSSIA.

[*Contributed by* L. P. Rastorgoueff, Esq., *of the Russian Bar.*]

Russian legislation of 1913 did not include many new laws of general interest, but the following may be mentioned:

Illegitimacy.—The law of May 13, 1913, by which the principles of the law in force in Russia proper relating to the position of illegitimate children were extended to the Provinces of Russian Poland. These provinces are governed by the Code Napoléon, under which illegitimate children are hardly dealt with. By the new law they may be legitimised by subsequent marriage of the parents, and they may also be acknowledged by the father, thereby obtaining the right to inherit his property. Both an illegitimate child and his mother have the right to demand alimony from the father, and facilities are given for the adoption of illegitimate children by the father.

Civil Rights.—A law of June 26, 1913, deals with restitution of rights. When criminal punishment is accompanied by deprivation of rights, those rights, according to the new law, may be restored after the expiration of a fixed period—namely, for convicts after ten years from the date of the termination of their sentence, for prisoners after five years from the date of their release; in case of good behaviour these periods may be shortened. Questions of restitution are decided by the district Court of the applicant's domicile (Arts. 31 Criminal Code, 975 Code of Criminal Procedure).

Estates in Tail.—By law of June 30, 1913, possessors of entailed property under a *majorat* are allowed, under due authorisation, to sell small allotments either directly to peasants in need of land or indirectly through the Peasants' Bank. The money received from such sale after deduction of the expenses incurred in the transaction cannot be appropriated by the possessor, but must be placed in a State Bank, and forms capital from which the interest only can be enjoyed by the possessor.

6. UNITED STATES OF AMERICA—STATE LEGISLATION.

[*Contributed by* R. Newton Crane, Esq.]

The legislation of the various States of the United States during 1913–14 is as large in volume and as varied in character as in past years. In both respects, possibly, it merits the observations of Senator Root at the meeting of the American Bar Association in October last, that, in his opinion, "our legislators make too many laws and make them too unintelligently." He stated that between the years 1909 and 1913 over 60,000 statutes were passed by the National and State legislatures, and that "many of these statutes are drawn inartistically, carelessly, and ignorantly. Their terms

are so vague and doubtful that they breed litigation inevitably." The suggestion he made to meet this abuse is the establishment of a good reference library, accessible to every legislator, and an expert drafting bureau to prepare bills. Nevertheless, and notwithstanding this sweeping criticism, these new statutes are of value as an indication of the trend of public feeling in America, the need for reform in certain directions, and the efforts that are being made by legislation to effect these reforms.

The following are subjects to which the labours of legislators have been directed in the session of 1913–14 :

Mothers' Pensions.—In connection with a widespread discussion of the education and best development of the child, definite steps have been taken recently for preserving to the child the benefits gained only from home influences. Admitting that the separation of the mother and child is detrimental to the child's development, many States have enacted legislation that will enable mothers too poor to maintain their children to keep them at home instead of placing them in the various public institutions. This is being done through a pension or allowance system. No less than seventeen States, the greater part of them during the past two or three years, have passed these so-called "Mothers' Pension" laws. A number of cities have provided similar aid by municipal ordinances. In Illinois the system, as part of the juvenile law, went into operation in 1911. California, Oregon, Colorado, Washington, Utah, South Dakota, Idaho, Minnesota, Iowa, Nebraska, Ohio, New Jersey, Pennsylvania, Massachusetts, and New Hampshire have passed similar laws in 1912–13, while four other States authorise the expenditure by municipalities of public funds for this purpose. The nature of these laws is indicated by the Massachusetts statute, which provides that local overseers of the poor shall make careful investigations and take adequate steps to assist mothers with dependent children under fourteen years of age. The aid furnished shall be sufficient to enable mothers to bring up their children properly in their own homes. The overseers may compel those bound to support the children to do so, and shall require such children as can work to contribute to their support, and shall assist in finding employment for them. A quarterly visitation or inspection is made, and at the end of twelve months the overseers must reconsider each case. The State pays one-third of the cost incurred by the local boards.

In New Hampshire the State contribution to the mother is made by county commissioners upon the recommendation of the local school board. The age limit of dependent children is sixteen years. The commissioners may not appropriate a larger sum than $10 per month for one child, and, if more than one, $10 for the first and $5 for each other child. The allowance is not made except where the mother is dependent upon her own efforts for the support of herself and family, and where, otherwise, she would have to leave home to carry on her work. Furthermore, she must be morally, physically, and mentally competent to bring up her children.

Minnesota and New Jersey leave the whole matter of "Mothers' Pensions" to the discretion of the Courts. In these States an order may be made against a county for the relief of a widow, with or without children, or for a wife, when the husband is in a penal institution, or an insane asylum, or is unable physically to support his family. Relief for children is given to those only under fourteen years, and the amount is limited to $10 per month for each child in the discretion of the Court.

The Care of Children.—In Colorado and Oregon the jurisdiction of Juvenile Courts has been so extended as to give them authority to investigate cases of dependent and neglected children. Where the parents are suitable guardians for their children, but, on account of poverty, are unable to support them properly, the Court may, in its discretion, direct the county commissioners to contribute a certain sum for that purpose. In Colorado a father, upon conviction of neglect or non-support, may be forced to perform manual labour in a workhouse, and the earnings from his labour are appropriated by the authorities to the support of his children.

Mothers' Day.—Several States have enacted laws under which the governor of the State is directed to issue a proclamation asking the people "to assemble upon a particular Sunday in their churches, or such other places as may be convenient, for the purpose of paying respect and tribute to our mothers."

Marriage of Degenerates.—North Dakota absolutely forbids the marriage of such persons by the following Act: "No woman under the age of forty-five, or man of any age, except he marry a woman over the age of forty-five years, either of whom is a common drunkard, habitual criminal, epileptic, imbecile, feeble-minded person, idiot or insane person, or person who has theretofore been afflicted with hereditary insanity, or is afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, shall hereafter intermarry or marry any other person within this State." Before a licence for marriage is issued to any applicant a physician's certificate must be produced showing that the contracting parties are not feeble-minded or otherwise degenerate.

Sterilisation of Criminals and Degenerates.—North Dakota and Oregon have followed the example set by several other States by enacting laws permitting the sterilisation of criminals and degenerates. In North Dakota, whenever the head of any State prison, reform school, or State school for feeble-minded, or asylum for insane, shall certify in writing that he believes that the mental or physical condition of any inmate would be improved thereby, or that procreation by such inmate would be likely to result in defective or feeble-minded children with criminal tendencies, it shall be lawful to perform a surgical operation for the sterilisation of such inmate, in accordance with the Act. This provides for a board of examiners consisting of the chief medical officer of the institution, the secretary of the State Board of Health, and one competent physician and surgeon of at least ten years' standing. If this board finds that the operation is advisable, or if an inmate

requests or consents thereto in writing, they shall designate some surgeon to perform the same. The Act further directs the chief medical officer having charge of inmates who have been operated upon to make careful observation upon such inmates, with a view to ascertaining the effect of such operation upon the mental, moral, and physical condition of such sterilised persons, and report thereon at least once a year to the Governor of the State. It is significant that the Act contains the following emergency clause: "Whereas heredity plays a most important part in the transmission of crime, insanity, idiocy, and imbecility, and our institutions for degenerates are overcrowded on account of the lack of adequate means of checking the ever-increasing numbers of this class, this Act shall take effect and be in force from and after its passage."

School-houses as Social Centres.—Several States have enacted statutes to permit and encourage the use of school-houses, and the grounds appertaining to them, for social gatherings for the entertainment, education, and recreation of the people. Their use, which must be non-denominational and non-sectarian, is not only free of cost, but in certain cases the educational authorities are required to provide funds to carry out the purposes of the Act.

Initiative, Referendum, and Recall.—The unique system by which the people may set aside laws enacted by the legislature, and pass laws independent of the legislature, is now in force in several of the Western States. These and other States have passed laws by which the people have the right to "recall" any elected official whose official acts may be considered by a majority vote of the people contrary to the public will. The same power is given to "recall" judicial decisions in certain circumstances. In Colorado an amendment has been proposed to the constitution which provides that where the Supreme Court of the State shall have decided that an Act passed by the Legislature is unconstitutional, there shall, upon the petition of 5 per cent. of the voters in the State, be a referendum to the people, who may declare by a ballot whether or not the Act shall be a law. If a majority of the voters decide in the affirmative, the Act shall remain on the statute book and be enforced, notwithstanding the fact that the Court of last resort has declared it to be unconstitutional, and therefore illegal.

The machinery for the recall of an official, according to the Colorado law, is novel. The Act provides "every elective public official of the State may be recalled from office at any time by the electors entitled to vote for his successor." Twenty-five per cent. of the electors may petition for a ballot whether or not an elected judge, senator, or other official (including the Governor of the State) shall be removed from his office. The ballot shall be accompanied by, or there shall be printed thereon, a statement of complaint, not to exceed 200 words in length, and an answer thereto by the accused official, which may extend to 300 words. The form of the ballot is: "Shall

(name) be recalled from the office of . . . ?" On the same ballot there shall be the name or names of persons nominated as the accused's successor in office, so that, if the vote is in favour of the recall, the person or persons thus nominated may be elected by the recall ballot. A recall petition may not be presented until an official has served for six months. If a first recall ballot results in favour of the accused, a second petition may not be presented unless signed by 50 per cent. of the electors.

Novel Election Regulations.—One of the first States to adopt the "Initiative and Referendum" was Montana, and that State has now placed upon the statute book a law which did not originate in the legislature, but was introduced into and passed through that body by the mandate of the electors themselves. The law is as novel as the method by which it was created. Its object is to prevent corruption and objectionable personalities in an electoral campaign. The public printer is directed to publish an election pamphlet, and to assign to each candidate a page thereof. The candidate may fill this page with any "copy" he likes, including his photograph, but vulgar abuse is excluded. Prior to publication the "copy" of each candidate is submitted to each of the other candidates, so that all may have the opportunity to reply to any statements that any may desire to controvert. A copy of this pamphlet must be sent to every elector in the State. The same act makes it a misdemeanour to publish in a newspaper a paid advertisement, or article, under the guise of a voluntary editorial comment. Every private election pamphlet, circular, or poster must contain the name of the author as well as that of the printer.

"Blue Sky" Legislation.—A large number of States in the west of the United States have passed what are generally called "Blue Sky" laws, by which are known laws intended to expose to the clearest light of day the transactions of private companies or corporations which offer their shares for sale to the public. Throughout America all companies, by a procedure which has the sanction of the Courts, are enabled to make their shares fully paid and non-assessable. It is a common practice to sell such shares, when they are held by the corporation as "treasury stock," by alluring advertisements in newspapers which reach a class of readers unaccustomed to financial transactions. It is estimated that many millions of dollars have been lost in the past few years in this way by credulous investors of small means. The laws which have been passed to prevent this abuse of confidence are generally upon the same lines. Officials, or boards, are created, variously called "Commissioners of Corporations," "Investment Commissioners," or "State Securities Commissioners," who are given authority to regulate the manner in which such securities may be dealt in and offered for sale. These commissioners require that a licence shall be obtained by all brokers or agents representing corporations organised under the laws of other States, that detailed information of the assets and constitution and powers of the company and of its officers shall be filed with the com-

missioners, and that no prospectus or advertisement or document relating to such securities shall be made public without having been first submitted to them. In addition to the western States, Vermont, West Virginia, and Ohio have passed laws to the same effect.

The Truth in Newspapers.—An attempt has been made in Ohio to protect the newspaper-reading public by the enactment of a law "to regulate newspapers and the publication of nothing but the truth." It provides that if any newspaper shall publish a false statement relating to any individual or association of individuals, or to any trade, labour, business, social, economic, or religious organisation, or to any public officer or candidate for public office, the said newspaper shall, if so desired, in its next issue, or within forty-eight hours thereafter, print and publish a statement under oath by the aggrieved person in correction of the alleged false statement. If the publisher refuses to open his columns for such correction he shall be liable to a fine of $1,000.

The Welfare of Workers.—The State of Washington has passed an Act appointing an "Industrial Welfare Commission," whose object is to protect women and minors from conditions of labour which have a pernicious effect on their health and morals, and to mitigate, in particular, the evils of inadequate wages and insanitary conditions. It has power to compel the attendance of employers at an arbitration conference, and if such conference recommends alterations of existing relations or conditions, to enforce the same. It may also establish a minimum wage, which shall not be changed for a period of one year.

In New York employers of female labour shall give to such employees an adequate period for rest at night, and no woman shall be permitted to work in any factory before 6 a.m. or after 10 p.m.

Compensation for Imprisonment of Innocent Persons.—The legislature of Wisconsin has appointed a "Board of Relief" which has full power to make compensation to persons who have served terms of imprisonment upon conviction for offences or crimes of which they are innocent. The board consists of the Governor of the State and certain members of the State Board of Control. It may hear evidence upon petition, and such evidence may embrace testimony which was not presented at the trial. If it is found "that it is clear beyond a reasonable doubt" that the petitioner was innocent of the charge upon which he was convicted, the Board may award him compensation to the extent of $5,000, or at the rate of $1,500 for each year of his imprisonment, or, in exceptional cases, may recommend to the legislature payment of a still larger sum.

State Insurance in Workmen's Compensation.—In California a permanent industrial accident commission has been created with wide powers to grant compensation, or award damages, in cases of accidents to employees resulting in injury or death, irrespective of the fault of the workman or the employer. A novel feature of this law is the establishment of a "State

Compensation Insurance Fund," to secure employers against liability in case of such accident. This scheme of insurance is to be managed by the Commissioners, who may issue policies to the employers at certain premiums. It is expected that it will be self-supporting. It has the advantage of having the treasury of the State for its capital, and will probably prove an unpleasant competitor to private insurance companies, as there is no intention on the part of the State to make a large, if any, profit.

Unfair Competition.—A restriction upon trusts and monopolies is attempted by the legislature of Wisconsin in an Act relating to discrimination in buying and selling commodities. It provides that any person or firm who intentionally and for the purpose of destroying the trade competition of any regularly established dealer shall discriminate between different geographical sections, communities, or cities, and shall sell goods at a lower rate in one section than in another, after making due allowance for transportation and other similar factors, shall be guilty of a misdemeanour, and be liable to a fine of $5,000 or imprisonment for twelve months, or both. The same offence is committed when a trader pays more for commodities in one section of the county than in another. The commission appointed to enforce the law has power to examine witnesses and papers and documents. If the offending trader is a domestic limited liability company or corporation its charter may be revoked, and if it is a foreign company it may be prevented from doing business in the State.

Uniform Marriage and other Laws.—The standing committee of the American Bar Association on uniform legislation is actively engaged in an effort to secure legislation by the different States, so that there may be the same laws with respect to marriage and divorce, insolvency, the descent and distribution of the property of intestates, the execution and probate of wills, notarial certificates, and the incorporation and registration of limited liability companies. There are forty-eight States in the United States, and each has independent powers with respect to these matters. As a natural consequence, large and populous communities, divided only by an imaginary line, are subject to widely different laws and equally diverse methods of procedure in enforcing the laws they have in common. The efforts of the committee have had satisfactory results, and it is owing to their exertions that all but a very few States have adopted the same law as to bills and promissory notes, and other matters affecting the commerce of the country. The movement in favour of uniformity in marriage and divorce, however, is proceeding slowly. The accepted rule of law that a marriage is valid if valid where it was celebrated, which is generally accepted in America, has produced no little confusion. In New York the guilty party in a divorce action may not remarry during the lifetime of the petitioner. But in such case the person thus prevented by the New York law from remarrying may cross the boundary of the State into Connecticut or New Jersey, and remarry, and such marriage being legal in the States mentioned, must be regarded as

valid in New York. To prevent this anomaly, Massachusetts has passed an Act which provides that if a person residing, or intending to reside, in that State is disabled by the law of that State from marriage, and marries in another State, such marriage shall be void in Massachusetts. If a person residing in another State is married in Massachusetts, such marriage shall be void if it would be void in the State where such person has his domicile. Before issuing a licence to marry to a person residing in another State the licensing officer shall satisfy himself that the applicant is competent to marry in the State where he resides.

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PRINTED BY
HAZELL, WATSON AND VINEY, LD.,
LONDON AND AYLESBURY.

Sir James Aikins, K.C., M.P.

President of the Canadian Bar Association